

California Department of Justice

# Law Enforcement Policy & Procedures Manual

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**Kamala D. Harris**  
**Attorney General**

**California Department of Justice**  
**Law Enforcement**  
**Policy & Procedures Manual**

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## **100 Law Enforcement Authority**

### **100.1 PURPOSE AND SCOPE**

Law enforcement officers are granted the authority to perform their function based on established legal authority. This department does not tolerate abuse of law enforcement authority.

### **100.2 PEACE OFFICER POWERS**

Special Agents of this department shall be considered peace officers pursuant to Penal Code § 830.1(b). The authority of any such peace officer extends to any place in the State of California.

#### **100.2.1 OTHER AUTHORITY**

Sworn members of this department have Oregon peace officer authority whenever the investigator enters Oregon in order to provide or attempt to provide specific law enforcement assistance and such assistance occurs no more than 50 miles from the California border.

Pursuant to Oregon law, such authority shall only apply when the investigator has entered Oregon:

- a. In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.
- b. In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance.
- c. For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

Whenever practicable, investigators should seek permission from a department supervisor before entering Oregon to provide law enforcement services. As soon as practicable, investigators exercising law enforcement authority in Oregon shall submit any appropriate written reports concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

Investigators who enter Oregon to assist in such situations have no authority to enforce Oregon traffic or motor vehicle laws.

### **100.3 CONSTITUTIONAL REQUIREMENTS**

All employees shall observe and comply with every person's clearly established rights under the United States and California Constitutions.

## **102 Director**

### **102.1 PURPOSE AND SCOPE**

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers employed within the State of California shall receive certification by POST within prescribed time periods.

#### **102.1.1 DIRECTOR REQUIREMENTS**

Any Director of this division shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment.



## **106 Policy Manual**

### **106.1 PURPOSE AND SCOPE**

The California Department of Justice Law Enforcement Policy & Procedures Manual of the Division of Law Enforcement (Division) and Division of Criminal Law, Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA) is hereby established and shall be referred to as "The Policy Manual." The Policy Manual is a statement of the current policies and guidelines of this department.

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized, however, that police work is not always predictable and circumstances may arise which warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

### **106.2 RESPONSIBILITIES**

The ultimate responsibility for the contents of the manual rests with the Director. Since it is not practical for the Director to prepare and maintain the manual, the following delegations have been made:

#### **106.2.1 DIRECTOR**

The Director shall be considered the ultimate authority for the provisions of this manual and shall continue to issue General Orders which shall modify those provisions of the manual to which they pertain. General Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

#### **106.2.2 STAFF**

Staff shall consist of the following:

- Director
- Deputy and/or Assistant Director
- The Bureau Chief and/or Assistant Bureau Chief from each bureau

The staff shall review all recommendations regarding proposed changes to the manual at staff meetings.

### **106.2.3 OTHER PERSONNEL**

All Department employees suggesting revision of the contents of the Policy Manual shall forward their suggestion, using a Proposed Revision to the Division of Law Enforcement Policy and Procedures Manual (DLE 181) form, through their chain of command. If approved, the employee's Bureau Chief or the BMFEA Director will then forward the DLE 181 to the Office of the Director for consideration.

### **106.3 FORMATTING CONVENTIONS FOR THE POLICY MANUAL**

The purpose of this section is to provide examples of abbreviations and definitions used in this manual.

#### **106.3.1 ACCEPTABLE ABBREVIATIONS**

The following abbreviations are used throughout the manual:

AFTP - Asset Forfeiture Tracking Program

ASI - Automated Subject Index

ATRS - Automated Training Record System

BFS - Bureau of Forensic Services

BGC - Bureau of Gambling Control

BI - Bureau of Investigation

BMFEA - Bureau of Medi-Cal Fraud and Elder Abuse

BOF - Bureau of Firearms

CFR - Code of Federal Regulations

CFS - Computer Forensic Specialist

CHP - California Highway Patrol

CID - Case Intake and Development

CIMS - Case Information Management System

CSII - California State Intelligence Index

DAG - Deputy Attorney General

DAS - Division of Administrative Support

DCJIS - Division of California Justice Information Services

DGS - California Department of General Services

DLE - Division of Law Enforcement

DMV - California Department of Motor Vehicles

DOJ - California Department of Justice

DOJAM - California Department of Justice Administrative Manual

DSB - Departmental Services Bureau

EATS - Evidence Automated Tracking System

FBI - Federal Bureau of Investigation

FPU - Facilities Protection Unit

IA - Investigative Auditor

IAS - Investigative Auditor Supervisor

MOU - Memorandum of Understanding

OD - Office of the Director

POST - California Commission on Peace Officer Standards and Training

PSG - Professional Standards Group

SAC - Special Agent in Charge

SAM - California State Administrative Manual

SAS - Special Agent Supervisor

SDAG - Supervising Deputy Attorney General

TFC - Task Force Commander

WSIN - Western States Information Network

General Orders may be abbreviated as "G.O."

Policy Manual sections may be abbreviated as "Section 106.X" or "§ 106.X"

### **106.3.2 DEFINITIONS**

The following words and terms shall have these assigned meanings, unless it is apparent from the content that they have a different meaning:

Adult - Shall mean any person 18 years of age or older

Assistant Chief - Shall mean the Assistant Chief of a bureau or of the Office of the Director, Executive Unit.

Assistant Director - Shall mean the Assistant Director of the Division.

Assistant Laboratory Director - Shall mean the Criminalist Supervisor who oversees the operation of a Bureau of Forensic Services unit or program.

Base Station Operator - The regional office/task force employee operating the radio base station. For BMFEA staff, the base station operator is the CHP dispatcher.

Bureau - Shall mean a bureau of the Division.

Bureau Chief - Shall mean the Bureau Chief of a bureau.

Chief of Investigations - Shall mean the Chief in charge of all BMFEA sworn personnel.

Chief of Prosecutions - Shall mean the Chief in charge of all BMFEA legal staff.

Civilian - Employees and volunteers who are not sworn peace officers.

Command Center - Shall mean the Command Center, Bureau of Criminal Information and Analysis, DCJIS.

Department - The California Department of Justice.

Deputy Director - Shall mean the Deputy Director of the Division.

Director - Shall mean the Director of the Division.

Division - Shall mean the Division of Law Enforcement.

DLE Policy Manual Coordinator - Shall mean the employee who is assigned by the Assistant Chief of the Office of the Director, Executive Unit to maintain this manual.

Employee/Personnel - Shall apply to any person employed by the Department.

Agent/Sworn - Applies to those employees, regardless of rank, who are sworn employees of the California Department of Justice as defined by Penal Code § 830.1(b).

Juvenile - Any person under the age of 18 years.

Laboratory Director - Shall mean the Criminalist Manager who directs the activities of a BFS regional laboratory or program.

Manager - Shall mean the person who directs the activities of a bureau section or program.

Manual - Shall refer to the Department of Justice, Division of Law Enforcement Policy Manual.

On-Duty - Employee status during the period when he/she is actually engaged in the performance of his or her assigned duties.

Order - An instruction, either written or verbal, issued by a superior.

ProLaw - A case information management system.

Rank - Shall mean the title of the classification held by an employee.

Regional Management - Shall mean the senior supervisory or managerial position at any regional office or regional laboratory.

Regional Laboratory - Shall mean any Department-owned or -leased facility that is occupied by a BFS laboratory.

Regional/Field Office/Facility - Shall mean any Department-owned or -leased facility that is occupied by a DLE office.

RISSGate - A portal to the Regional Information Sharing System Network.

RISNET - Regional Information Sharing System Network managed by the WSIN.

Shall - Indicates a mandatory action.

Should - Indicates a generally required or expected action, absent a rational basis for failing to conform.

State - The State of California.

Task Force - Any task force that is managed by any bureau of this division.

### **106.3.3 DISTRIBUTION OF MANUAL**

A computerized version of the Policy Manual will be made available on the Department network for access by all employees. The computerized version will be limited to viewing and printing.

No changes shall be made to the electronic version without authorization from Staff.

### **106.4 MANUAL ACCEPTANCE**

As a condition of employment, all employees are required to read and obtain necessary clarification of this department's policies within 30 days of hiring. All employees are required to sign an Acknowledgement of DLE Policy and Procedure Manual and General Orders form (DLE 187) acknowledging that they have received a copy, or have been provided access to the Policy Manual and understand they are responsible to read and become familiar with its contents. The signed DLE 187 shall be maintained in the employee's personnel file at his/her work location.

#### **106.4.1 REVISIONS TO POLICIES**

All employees are responsible for keeping abreast of all Policy Manual revisions. All changes to the Policy Manual will be posted on the Department Intranet under the title Publications. Each employee shall review the revisions and seek clarification as needed.

#### **106.5 *Not subject to disclosure due to agent safety concerns***

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**106.5.1 Not subject to disclosure due to agent safety concerns**

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### **106.5.2 Not subject to disclosure due to agent safety concerns**

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- [Redacted]
- [Redacted]
- [Redacted]

### **106.5.3 CALIFORNIA PEACE OFFICERS LEGAL SOURCEBOOK**

The *California Peace Officers Legal Sourcebook* is updated bimonthly and is available to all DOJ staff through Copware Inc., the sole authorized electronic vendor. To access the California Peace Officers Legal Sourcebook online, log on to <http://library.copware.com>.

- a. New users must first register for an account by following the instructions in the Create an Account section, entering their DOJ e-mail address and selecting DOJ from the drop-down list of departments. Upon registration, Copware will send an assigned password to the registrant’s DOJ e-mail address.
- b. Returning users may access the *California Peace Officers Legal Sourcebook* by entering their DOJ e-mail address and Copware password in the Member Login section. If necessary, click “Forgot your password” or “Reset your password.”



- c. If additional support is required, contact Copware's technical support staff at [support@copware.com](mailto:support@copware.com) or 877-COPWARE.

#### **106.5.4 BFS QUALITY MANAGEMENT SYSTEM**

The BFS Quality Management System is a collection of administrative and technical policies and procedures developed in compliance with accrediting organizations. Nothing in this manual is intended to supersede any part of the BFS Quality Management System. In the event of a difference in policies or procedures between this manual and the Quality Management System, BFS employees are instructed to comply with the Quality Management System.

## **200 Organizational Structure and Authority**

### **200.1 PURPOSE AND SCOPE**

The organizational structure of this department is designed to create an efficient means to accomplish our mission and goals and to provide for the best possible service to the public.

#### **200.1.1 AUTHORITY**

The Division of Law Enforcement was created in 1972 to assist State and local criminal justice agencies in the coordination of law enforcement efforts, assist the Attorney General in his/her role as attorney for the people of the State of California, and perform special tasks as directed by the Attorney General or the Governor. The Division of Law Enforcement derives its authority from the power vested in the Attorney General by Article V, Section 13 of the State Constitution, as well as various bureau-specific statutes.

### **200.2 ORGANIZATION**

The Director is responsible for administering and managing the Division of Law Enforcement. The Division is organized into five elements as follows:

- Office of the Director
- Bureau of Firearms
- Bureau of Forensic Services
- Bureau of Gambling Control
- Bureau of Investigation

#### **200.2.1 *Not subject to disclosure due to agent safety concerns***

[REDACTED]

## **200.2.2 BUREAU OF FIREARMS**

The Bureau of Firearms (BOF) joined the Division of Law Enforcement in 2007. The BOF regulates and enforces the manufacture, sales, ownership, and transfer of firearms in California. The BOF is divided into five sections: the Firearms Licensing and Permits Unit, the Firearms Information Services Unit, the Firearms Clearance Section, the Administration/Special Assignments Unit, and the Field Enforcement Section. The BOF maintains offices in Northern and Southern California. Task forces are also established within the regional offices.

## **200.2.3 BUREAU OF FORENSIC SERVICES**

The Bureau of Forensic Services (BFS) laboratory system was created in 1972 to help the Attorney General support a uniform quality of justice by providing forensic science services to law enforcement and prosecutorial agencies. The BFS provides forensic science support, expert testimony, and crime scene investigations for local, State and Federal law enforcement agencies and district attorneys' offices in 47 of California's 58 counties. In addition, the BFS operates the largest working DNA data bank in the country.

## **200.2.4 BUREAU OF GAMBLING CONTROL**

The Bureau of Gambling Control (BGC) joined the Division of Law Enforcement in 2007. The BGC regulates legal gambling activities in California to ensure that gambling is conducted honestly, competitively and free from criminal and corruptive elements. The BGC is divided into six sections: Office of the Bureau Chief, Administration, Audits, Tribal Liaison, Licensing and Compliance, and Enforcement. The BGC is routinely called upon by local, state, and federal law enforcement agencies to assist with illegal gambling investigations.

## **200.2.5 BUREAU OF INVESTIGATION**

The Bureau of Investigation (BI) was created in 2012, the product a merging of two former bureaus: the Bureau of Narcotic Enforcement and Bureau of Investigation and Intelligence. The BI provides investigative support to the Attorney General and primarily focuses on transnational gangs, organized crime, major fraud and narcotics. The BI consists of Special Investigations Teams, Special Operations Units, the Task Force Program, the Department of Conservation Program, the Foreign Prosecutions and Law Enforcement Unit, the Campaign Against Marijuana Planting and the Anti-Terrorism Program.

## **200.3 COMMAND PROTOCOL**

### **200.3.1 SUCCESSION OF COMMAND**

The Director exercises command over all personnel in the Division. Authority from the Director extends through the Deputy or Assistant Director to the Chief of each bureau, who is responsible for directing the activities of his/her bureau.

During planned absences, the DLE Director will designate the Deputy or Assistant Director or a Bureau Chief to serve as the acting Director. The Director will designate, in writing, in order of priority who will act as the Director in his/her absence. The chain of command memorandum shall include the names of persons in the chain of command and their contact information. A copy of this memorandum shall be forwarded to the DCJIS Command Center and to all persons in the chain of command. A copy, without home phone numbers, is to be posted in an area accessible to all employees. The memorandum will be updated as necessary to reflect the current chain of command as personnel changes dictate. The required distribution shall be reflected in the memorandum. In the event of absence of the Director and Deputy or Assistant Director, the next person on the list shall take charge.

A chain of command memorandum is to be prepared, distributed, posted and updated as described above by the Bureau Chiefs, by every regional manager with a copy to bureau headquarters, and by every TFC with copies to the SAC and the task force council/board.

Except when designated as above, the order of command authority in the absence or unavailability of the DLE Director is as follows:

- a. Deputy or Assistant Director
- b. Bureau Chief

Except when designated as above, the order of command authority in the absence or unavailability of the BMFEA Director is as follows:

- a. Chief of Investigations
- b. Chief of Prosecutions
- c. Designated Special Agent in Charge

In the absence of a Deputy Director or Assistant Director, all references to the Deputy or Assistant Director in this manual shall be interpreted to mean the Director or his/her designee.

### **200.3.2 UNITY OF COMMAND**

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., clandestine lab, Honor Guard), any supervisor may temporarily direct any subordinate if an operational necessity exists.

### **200.3.3 ORDERS**

Employees shall respond to and make a good faith and reasonable effort to comply with the lawful order of superior officers and other proper authority.

Supervisors, or anyone acting in such capacity, are held responsible for all orders issued to those under their command. Absent exigent circumstances, no supervisor shall issue any order that is contradictory to any established law, regulation, or Division or Department policy.

## **204 General Orders**

### **204.1 PURPOSE AND SCOPE**

General Orders establish an intra-division communication that may be used by the Director to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code § 3500 et seq. General Orders will immediately modify or change and supersede sections of this manual to which they pertain.

#### **204.1.1 GENERAL ORDER PROTOCOL**

General Orders will be incorporated into the manual as required upon approval of Staff. General Orders will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

All existing General Orders have now been incorporated in the updated Policy Manual as of the below revision date.

Any General Orders issued after publication of the manual shall be numbered consecutively starting with the year, followed by the number. For example, 2009-01 signifies the first General Order for the year 2009.

### **204.2 RESPONSIBILITIES**

#### **204.2.1 STAFF**

The staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a General Order.

#### **204.2.2 DIRECTOR**

The Director shall issue all General Orders.

### **204.3 ACCEPTANCE OF GENERAL ORDERS**

All employees are required to read and obtain any necessary clarification of all General Orders. All employees may be required to acknowledge in writing the receipt and review of any new General Order.

## **206 California Emergency Plan**

### **206.1 PURPOSE AND SCOPE**

The State has prepared the California Emergency Plan (Plan) for use by all employees in the event of a major disaster or other emergency event. The Plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610).

### **206.2 ACTIVATING THE EMERGENCY PLAN**

The Plan can be activated in a number of ways. For the Department, the Attorney General or the highest ranking official on duty may activate the Plan in response to a major emergency.

### **206.3 LOCATION OF MANUALS**

The Plan is available on the California Emergency Management Agency's Web site at [www.calema.ca.gov](http://www.calema.ca.gov). The Department's roles and responsibilities are specified in section 14.7 of the California Emergency Plan. All supervisors should familiarize themselves with the Plan and what roles personnel will play when the plan is implemented.

## **208 Training Policy**

### **208.1 PURPOSE AND SCOPE**

It is the goal of this department to administer a training program that will provide for the professional growth and continued development of its personnel.

### **208.2 PHILOSOPHY**

The Department seeks to provide ongoing training and encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the Department will use courses certified by the California Commission on Peace Officer Standards and Training (POST).

### **208.3 OBJECTIVES**

The objectives of the Training Program are to:

- a. Enhance the level of law enforcement service to the public.
- b. Increase the technical expertise and overall effectiveness of our personnel.
- c. Provide for continued professional development of Department personnel.

### **208.7 TRAINING PROCEDURES**

- a. All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
  1. Court appearances
  2. First choice vacation
  3. Sick leave
  4. Physical limitations preventing the employee's participation.
  5. Emergency situations
- b. When an employee is unable to attend mandatory training, that employee shall:
  1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.



2. Document his/her absence in a memorandum to his/her supervisor.
3. Make arrangements through his/her supervisor and the training provider to attend the required training on an alternate date.

## **208.9 RESPONSIBILITIES**

The DLE Training Officer is assigned to the Office of the Director. His/her responsibilities are to oversee DLE in-service training and to review and approve/deny training requests for all employees.

Regional management shall each appoint an employee to act as the regional Training Coordinator. The regional manager shall ensure that the Training Coordinator receives the appropriate orientation and training to perform the required duties.

The Training Coordinator will track all completed training in the Automated Training Record System (ATRS) for all employees assigned to their regional office/lab, except non-DLE task force personnel. The ATRS Manual provides detailed instructions for the Training Coordinators. Annual printouts from the ATRS indicating the employee's training history are to be placed in the employee's training file.

Task forces are to maintain training files for all their employees who receive training while assigned to a DOJ task force.

## **211 Publishing Division Web Pages**

### **211.1 PURPOSE AND SCOPE**

The purpose of this policy is to further define the guidelines found in DOJAM § 15600 et seq. for the publication of information presented on the Department's Internet, Intranet, and Extranet by members of this division.

### **211.2 RESPONSIBILITIES**

The Division Web Coordinator, a member of the Office of the Director, is the employee designated by the Division to submit Web content to the DCJIS Departmental Services Bureau (DSB).

Each bureau shall assign an Information Provider as defined by DOJAM § 15613. The Bureau Information Provider is responsible for ensuring that all Web content submitted to the Division Web Coordinator is accurate and in compliance with the provisions of DOJAM §§ 15600-15640.

### **211.3 PROCEDURES**

No DLE employee, program, or bureau may create or modify a Web site for presentation of information about a DLE program without the advance approval of the Deputy or Assistant Director.

Each Bureau Information Provider must obtain the approval of his/her Bureau Chief prior to submitting any request for addition, revision, or removal of Web content to the Division Web Coordinator. Requests are to be submitted electronically in their final format, free of typographical errors, and should include both the current and proposed versions of the page(s), if applicable.

The Division Web Coordinator will secure the approval of the Deputy or Assistant Director and coordinate with DSB to facilitate placement of approved content on the Department's Internet/Intranet/Extranet Web pages.

## **214 Administrative Communications**

### **214.1 PURPOSE AND SCOPE**

Administrative communications of this division are governed by the DOJAM, the Task Force Manual, and Administrative Bulletins.

SACs/Lab Managers are responsible for communication between the employees assigned to their programs, bureau headquarters, task forces, the Office of the Director, and DAS. In order to keep supervisors and staff informed, and to minimize work interruptions, official requests for information are to be routed through the office chain of command.

### **214.5 SIGNATURE AUTHORITY**

All memorandum and letterhead communications shall be signed by the Director, Deputy or Assistant Director, Bureau Chief, Assistant Bureau Chief, SAC, TFC, or manager of the section. Unless specifically directed to do so, agents and non-managerial staff shall not sign official communications.

Use of a facsimile signature shall be limited to Bureau Chiefs, Assistant Chiefs, SACs and TFCs. Under no circumstances shall a facsimile signature be used to approve the original request for expenditure of state or task force funds.

Facsimile signatures may be used within the CIMS report writing system, in that the facsimile signature is included at the end of the report when it is approved by the supervisor. The report and signature are maintained as original documents in the CIMS database.

## **220 Retired Agent CCW Endorsements**

### **220.1 PURPOSE AND SCOPE**

The purpose of this policy is to outline the process and conditions associated with the issuance, revocation, and denial of concealed weapons (CCW) endorsements for retired agents of this department.

### **220.2 QUALIFIED RETIREES**

Any full-time sworn agent of this department who was authorized to, and did, carry a concealed firearm during the course and scope of their employment shall be issued an identification card with a "CCW Approved" endorsement upon honorable retirement (Penal Code § 25455).

- a. For the purpose of this policy, "honorably retired" includes all peace officers, as defined in Penal Code § 830.1(b) and 830.4(c), who have qualified for, and accepted, a service or disability retirement; however, shall not include any agent who retires in lieu of termination.
- b. No "CCW Approved" endorsement shall be issued to any agent retiring because of a psychological disability (Penal Code § 26305(a)).
- c. A "CCW Approved" endorsement authorizes an honorably retired peace officer to carry a concealed and loaded firearm in the State of California. Under no circumstances does it confer upon the retiree any peace officer powers, official status with the Department or the authority to act on the Department's behalf.
- d. A "CCW Approved" endorsement issued pursuant to this section is valid for five (5) years from the date of issuance.

### **220.3 MAINTAINING A CCW ENDORSEMENT**

In order to maintain a "CCW Approved" endorsement on an identification card, the retired agent shall:

- a. Qualify with the authorized firearm at a course approved by this department, at the retired agent's expense.
- b. Remain subject to all department rules and policies as well as all federal, state and local laws.
- c. Only be authorized to carry a concealed firearm inspected and approved by the Department.

- d. Petition the Department for renewal of the CCW endorsement (Penal Code § 25915) prior to the expiration date on the card by submitting an Application for Retired Peace Officer Identification (DLE 233). The application form is available on the Department's Intranet or by contacting the Bureau of Firearms.

## **220.4 CARRYING CONCEALED FIREARMS OUT OF STATE**

Notwithstanding any other provision of the law of any state, or any political subdivision thereof, qualified retired agents may be authorized to carry a concealed weapon in other states (18 United States Code 926C).

As used in this section, "qualified retired law enforcement officer" includes any peace officer listed in Penal Code § 830.1(b) who:

- a. Retired in good standing from service with this department as a law enforcement officer for reasons other than mental instability; and
- b. Before retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or, retired due to a service-connected disability after completing any applicable probationary period; and
  - 1. Has a nonforfeitable right to benefits under the retirement plan of this department; and
  - 2. Is not prohibited by Federal law from receiving a firearm; and
  - 3. During the most recent 12-month period, and annually thereafter, at the retiree's own expense, was tested or otherwise found to meet the standards established by this department for training and qualification for active law enforcement officers to carry a firearm.
- c. As used in this section, the term "firearm" does not include any machinegun (as defined in Section 5845 of the National Firearms Act), any firearm silencer (as defined in 18 United States Code 921) or a destructive device (as defined in 18 United States Code 921).
- d. A "CCW Approved" endorsement issued pursuant to this section is valid for one (1) year.

## **220.5 IDENTIFICATION CARD FORMAT**

The identification card issued to any qualified and honorably retired agent shall be two inches by three inches and minimally contain the following (Penal Code § 25460(c)):

- a. Photograph of the retiree.

- b. Retiree's name and date of birth.
- c. Date of retirement.
- d. Name and address of this department.
- e. A stamped endorsement "CCW Approved" along with the date by which the endorsement must be renewed. In the case in which a CCW endorsement has been denied or revoked, the identification card shall be stamped "No CCW Privilege."
- f. If applicable, a notation that "This person is in compliance with 18 U.S.C. § 926C(c)."

## **220.6 DENIAL OR REVOCATION OF CCW ENDORSEMENT**

The CCW endorsement under Penal Code § 25455 for any agent retired from this department may be denied or permanently revoked only upon a showing of good cause. Any denial or revocation under this section shall also be considered disqualification under 18 U.S.C. § 926C(d). The CCW endorsement may be immediately and temporarily revoked by the Director or designee when the conduct of a retired peace officer compromises public safety. Good cause, if challenged, shall be determined in the following manner:

- a. In the event that a CCW endorsement is initially denied, the retired agent shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request by the retired agent for a hearing is received.
- b. Prior to revocation of any CCW endorsement, the Department shall provide the affected retiree with written notice of the right to a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).
  1. In addition to the mandates specified in statute, the written notice provided by the Department will articulate the basis for denial.
  2. The retiree shall have 15 days from the date of service to file a written request for a hearing.
  3. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.
  4. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.

- c. The hearing for the denial or revocation of any CCW endorsement shall be composed of three members, one selected by the Department, one selected by the retiree or his/her employee organization and one selected jointly (Penal Code § 26320(a)).
  1. The decision of such hearing board shall be binding on the Department and the retiree.
  2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."

### **220.6.1 SAC RESPONSIBILITY**

Employees who have reason to suspect a retiree's conduct has compromised public safety should notify the SAC as soon as practical; the SAC should promptly notify the PSG SAC. Additionally, the PSG may receive subsequent arrest notification indicating that a retiree's conduct has compromised public safety. The PSG SAC should take the following steps in these instances:

- a. Take appropriate steps to promptly look into the matter and notify the Deputy or Assistant Director of his/her findings.
- b. If warranted, contact the retiree in person and advise him/her in writing of the following:
  1. The retiree's CCW endorsement is immediately and temporarily revoked.
  2. The retiree will have 15 days to request a hearing to determine whether the temporary revocation should become permanent.
  3. The retiree will forfeit his/ her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
- c. A current copy of Penal Code §§ 26305 through 26325 should be attached to the written notice.
- d. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the PSG SAC should attempt to make the above notice of temporary suspension through another peace officer. For example, if a retiree was arrested or detained by a local law enforcement agency, the PSG SAC may request that a peace officer of that agency act as the Department's agent to deliver the written notification.

- e. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312(a)).



## **221 Peer Support Program**

### **221.1 PURPOSE AND SCOPE**

Historically, Division of Law Enforcement (DLE) employees have had an Employee Assistance Program (EAP) to assist them when dealing with troubling problems or traumatic incidents. Research dealing with work-related stresses and illnesses has shown that people also turn to peers for support.

The Peer Support Program (Program) is a voluntary and confidential program for all employees and their families. The Program is comprised of volunteer Peer Support Counselors (Counselors) who are trained to be effective listeners, to help clarify problems and to identify options to resolve those problems. The purpose of the Program is to provide support for work-related problems before they become acute. The Program is not intended to replace the EAP, the Law Enforcement Chaplaincy, or privately-acquired counseling services. It is also not intended as a substitute for dispute resolution between supervisors and employees on issues related to performance or discipline.

Because the Program is strictly voluntary, its operation is dependent upon the availability and interest of a sufficient number of participants. This policy is applicable when the Program is operative.

### **221.2 PROGRAM ADMINISTRATION**

The Program will be administered by a Peer Support Coordinator (Coordinator). The Coordinator shall be selected from the ranks of the volunteer Peer Support Counselors by the Director. The Coordinator shall report to the PSG SAC. The Coordinator is responsible for maintaining liaison and communication with the PSG SAC and Counselors. Program development and policy will be proposed by the Coordinator and approved by the PSG SAC. In addition, the Coordinator will be responsible for the following administrative duties:

- a. Budgetary concerns that involve expenses for the training, equipment, and materials necessary for the program.
- b. Ensure that the Counselors are carrying out their duties in accordance with their training.
- c. Ensure that statistical information is collected by the Counselors, correlated, and forwarded to the PSG SAC on a monthly basis.
- d. Act as a liaison between management and the Counselors.
  1. Handle all questions concerning the Program, its direction, procedures, and conduct of the Counselors.

2. Promote awareness of the Program to Division management, and ensure that management is also represented by providing training to management personnel and their inclusion in the Program.
- e. Develop and maintain employee awareness of the availability of the Program through information and training.
- f. Develop and maintain contact with resources and referrals such as the Law Enforcement Chaplaincy, the EAP, and other Peer Support Programs throughout the state.
- g. Pre-approve all contacts made by Counselors.

### **221.3 QUALIFICATIONS AND SELECTION - PEER SUPPORT COUNSELORS**

Peer Support Counselors are selected through a process. The applicants must possess good interpersonal skills and are required to agree to a two-year commitment to the Program. They must attend training as required by the Commission on Peace Officer Standards and Training (POST), as well as attend membership meetings.

The DLE is committed to selecting Peer Support Counselors with varied ethnic, cultural, gender, and life experiences. Peer Support Counselors will be selected by the Director, based upon the recommendations of the applicants' respective Bureau Chiefs and the Coordinator. Active or retired DOJ peace officers who are interested in becoming Peer Support Counselors must submit a memorandum to the Program Coordinator, via the applicant's chain of command, expressing his/her interest in becoming a Peer Support Counselor. The memorandum must address the following criteria:

- a. Willingness to attend required meetings and training sessions.
- b. Willingness to keep and forward statistics to the Coordinator on a monthly basis, utilizing the Volunteer Peer Support Counselor Monthly Activity Summary form (DLE 237).
- c. Willingness to commit to a two-year term in the Peer Support Program.
- d. Willingness to respond to calls in a timely manner, during both on- and off-duty hours.
- e. Willingness to immediately notify the Coordinator of any changes to his/her contact numbers.

Applicants must demonstrate through an oral interview an understanding of the concept of confidentiality, and non-judgmental thinking. Additionally, in order to be considered, the applicant must have received a minimum overall rating of "standard" on his/her three most recent annual performance evaluations.

The decision to remove any Peer Support Counselor from the Program will be made by the Office of the Director with input from the Coordinator. A Counselor may remove him/herself from the Program by providing the Coordinator with written notification.

## **221.4 TRAINING**

Counselors are trained to be effective listeners, provide feedback, clarify issues, and help employees identify options for problem resolution by providing information and/or referrals. Peer Support Counselors are not therapists. When an employee appears to require special assistance beyond the scope of the Peer Support Program, the employee will be referred to the EAP, the Law Enforcement Chaplaincy, or privately-acquired therapy or counseling services.

All initial Peer Support training will be completed through a POST-certified Peer Counseling course. All Peer Support Counselors should attend a Peer Counseling course once every two years. All Peer Support Counselors must attend all additional training and meetings as required or requested by the Coordinator.

## **221.5 DEPLOYMENT**

All participation in peer support will be strictly voluntary. In most cases, the contact will be initiated by the person seeking assistance. Employees desiring peer support may contact the Coordinator or may contact individual Counselors directly. There will be no mandatory referrals of DLE employees to the Peer Support Program, nor will Counselors be ordered to initiate contact with DLE employees. This does not preclude a Counselor from initiating a voluntary contact when learning an employee is facing a job or personal crisis. The employee's participation in such peer support contact shall be voluntary.

## **221.6 CRITICAL INCIDENT STRESS RESPONSE**

In the event of a critical incident, Counselors may be called to assist. Critical incident stress response should be offered to all DLE employees who are involved, directly or indirectly, in a critical incident. The objective of the response is to alleviate the potential problem of the intense emotional reactions to dysfunctional post-traumatic stress symptoms. The Peer Support Program's immediate response to critical incidents is defined in Section II.M. of the Critical Incident Manual. Further peer support may be offered in any of the following forms:

- a. **Informal Group Intervention** - An informal group intervention may be provided to the employees involved in various aspects of the critical incident, validating their reaction and mitigating their symptoms in a small, supportive group environment, facilitated by trained DLE representatives. When needed, an informal group intervention will be scheduled at the end of the shift during which the critical incident occurred. The Counselors will conduct the intervention.

- b. **Formal Group Intervention/Critical Incident Stress Debriefing (CISD)** - When needed, a formal group intervention will be scheduled by the Coordinator to occur within 24-72 hours of the critical incident. Employees directly involved in the critical incident will be invited to attend the formal group intervention on a voluntary basis. A formal group intervention is conducted in an open forum designed to reduce critical incident stress experienced by personnel.
- c. **Follow-up Intervention** - Follow-up intervention might include, but is not limited to, referrals to professional counseling, therapy and/or the Law Enforcement Chaplaincy, additional peer support contact, or follow-up group sessions regarding the unresolved issues.

## 221.7 CONFIDENTIALITY

In order for the Program to succeed, confidentiality must be held in the highest regard. Communications between employees and Peer Support Counselors are confidential; however, subject to disclosure as follows:

- a. Communications between employees and Peer Support Counselors are not privileged and must be disclosed when required by law, legal process, or policy.
- b. Counselors shall advise employees that confidentiality will be maintained, except when disclosure is required by law, legal process, or policy. Instances where communications must be disclosed include, but are not limited to, the following:
  - 1. The Counselor shall disclose communications as required by state or federal law, or Departmental policy.
  - 2. Communication received by the Counselor shall be disclosed as required during administrative or criminal investigations.
  - 3. In the case of threatened serious injury against another person, attempts shall be made to warn the intended victim.
  - 4. When the communication indicates that the employee is a danger to himself/herself, fellow employees, or the public, the communication will be disclosed.
- c. If the Counselor believes a communication is subject to disclosure, he/she shall notify the Coordinator and discuss his/her intent to disclose the communication unless the Counselor has been ordered not to discuss an open investigation or active court case.
- d. Counselors will not be ordered to disclose information concerning peer support sessions except as outlined above. After consulting with the Coordinator, the Counselor shall

determine whether information requested must be disclosed based upon the above criteria.

- e. Counselors do not have a right to withhold information when they have independent knowledge about the event.
- f. Supervisors who are Counselors cannot abdicate their supervisory responsibilities when on duty and confronted by misconduct, disciplinary problems, or other improper actions on the part of employees.

## **300 Use of Force**

### **300.1 PURPOSE AND SCOPE**

This policy recognizes that the use of force by law enforcement requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide agents of this department with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each agent is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

#### **300.1.1 PHILOSOPHY**

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Agents are involved on a daily basis in numerous and varied human encounters and when warranted, may use force in carrying out their duties.

Agents must have an understanding of, and true appreciation for, the limitations of their authority. This is especially true with respect to agents overcoming resistance while engaged in the performance of their duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting agents with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

#### **300.1.2 DUTY TO INTERCEDE**

Any agent present and observing another agent using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of such excessive force. Such agents should also promptly report these observations to a supervisor.

### **300.2 POLICY**

It is the policy of this department that agents shall use only that amount of force that reasonably appears necessary, given the facts and circumstances perceived by the agent at the time of the event, to effectively bring an incident under control.

"Reasonableness" of the force used must be judged from the perspective of a reasonable agent on the scene at the time of the incident. Any interpretation of reasonableness must allow for the

fact that bureau agents are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation.

Given that no policy can realistically predict every possible situation an agent might encounter in the field, it is recognized that each agent must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an agent to actually sustain physical injury before applying reasonable force.

### **300.2.1 USE OF FORCE TO EFFECT AN ARREST**

Any peace officer that has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance (Penal Code § 835a).

### **300.2.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

When determining whether or not to apply any level of force and evaluating whether an agent has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

- a. The conduct of the individual being confronted (as reasonably perceived by the agent at the time).
- b. Agent/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of agents vs. subjects).
- c. Influence of drugs/alcohol (mental capacity).
- d. Proximity of weapons.
- e. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- f. Time and circumstances permitting, the availability of other options (what resources are reasonably available to the agent under the circumstances).
- g. Seriousness of the suspected offense or reason for contact with the individual.

- h. Training and experience of the agent.
- i. Potential for injury to citizens, agents and suspects.
- j. Risk of escape.
- k. Other exigent circumstances.

It is recognized that agents are expected to make split-second decisions and that the amount of an agent's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, each agent is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

It is recognized, however, that circumstances may arise in which agents reasonably believe that it would be impractical or ineffective to use any of the standard tools, weapons or methods provided by the Department. Agents may find it more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate law enforcement purpose.

### **300.2.3 NON-DEADLY FORCE APPLICATIONS**

Any application of force that is not reasonably anticipated and intended to create a substantial likelihood of death or very serious injury shall be considered non-deadly force. Each agent is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of agents and the public.

Non-deadly force applications may include but are not limited to control devices and TASER described in Policy Manual §§ 308 and 309 respectively.

### **300.2.4 PAIN COMPLIANCE TECHNIQUES**

Pain compliance techniques may be very effective in controlling a passive or actively resisting individual. Agents may only apply those pain compliance techniques for which the agent has received departmentally approved training and only when the agent reasonably believes that the use of such a technique appears necessary to further a legitimate law enforcement purpose. Agents utilizing any pain compliance technique should consider the totality of the circumstance including, but not limited to:

- a. The potential for injury to the agent(s) or others if the technique is not used.



- b. The potential risk of serious injury to the individual being controlled.
- c. The degree to which the pain compliance technique may be controlled in application according to the level of resistance.
- d. The nature of the offense involved.
- e. The level of resistance of the individual(s) involved.
- f. The need for prompt resolution of the situation.
- g. If time permits (e.g., passive demonstrators), other reasonable alternatives.

The application of any pain compliance technique shall be discontinued once the agent determines that compliance has been achieved.

### **300.3 DEADLY FORCE APPLICATIONS**

While the use of a firearm is expressly considered deadly force, other force might also be considered deadly force if the agent reasonably anticipates and intends that the force applied will create a substantial likelihood of causing death or very serious injury. Use of deadly force is justified in the following circumstances:

- (a) An agent may use deadly force to protect himself/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An agent may use deadly force to stop a fleeing suspect when the agent has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the agent reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to any other person if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

#### **300.3.1 CAROTID RESTRAINT**

The proper application of the carotid restraint hold by a trained agent may be effective in quickly restraining a violent individual. Only agents who have successfully completed department-approved training on the use of the carotid restraint hold and the department Use of Force Policy are authorized to use the technique. After initial training, agents shall complete training biennially on the use of the carotid restraint hold.

The carotid restraint hold may be used when the agent reasonably believes that the application of the hold appears necessary to prevent serious bodily injury or the imminent threat of death to an agent or other person(s).

After any application of any carotid restraint hold, the agent shall ensure the following steps occur:

- a. Any individual who has had the carotid restraint hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel.
- b. The agent shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid restraint hold and whether the subject lost consciousness as a result.
- c. Any agent applying the carotid restraint shall promptly notify a supervisor of the use or attempted use of such hold.
- d. The use or attempted use of the carotid restraint shall be thoroughly documented by the agent in any related reports.

### **300.4 REPORTING THE USE OF FORCE**

Any use of physical force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report depending on the nature of the incident. The use of particular weapons such as chemical agents may require the completion of additional report forms as specified in departmental policy and/or law.

#### **300.4.1 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practical following the application of physical force, under any of the following circumstances:

- (a) The application of force appears to have caused physical injury.
- (b) The individual has expressed a complaint of pain.
- (c) Any application of a control device.
- (d) The individual has been rendered unconscious.

### **300.4.2 MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE**

Prior to booking or release, medical assistance shall be obtained for any person who has sustained visible injury, expressed a complaint of injury or continuing pain, or who has been rendered unconscious. Based upon the agent's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple agents to bring under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

### **300.5 SUPERVISOR RESPONSIBILITY**

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- a. Obtain the basic facts from the involved agent(s). Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. Separately obtain a recorded interview with the subject(s) upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a report.
  3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment or first aid has been completed, ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas. These photographs should also be retained until all potential civil litigation has expired.

- e. Identify any witnesses not already included in related reports.
- f. Review and approve all related reports.

In the event that the supervisor believes that the incident may give rise to potential civil litigation or media exposure, the Deputy or Assistant Director shall be notified via the chain of command. Should the supervisor determine that any application of force was not within policy, the Deputy or Assistant Director shall be notified via the chain of command. Any such notification shall be made separately. A separate internal administrative investigation may be initiated at the Deputy or Assistant Director's discretion.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

## **302 Critical Incident/Shooting Review Board**

### **302.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish a process to review the circumstances surrounding critical incidents involving employees of this division with the aim of identifying training needs or necessary changes in investigative procedures to reduce the number of future incidents and enhance the safety of Division personnel.

### **302.2 REVIEW BOARD**

The DLE Director or Deputy or Assistant Director shall review the incident and, if appropriate, shall cause a Critical Incident/Shooting Review Board (Board) to be convened in accordance with this section of the manual. A Board shall also review all work-related accidents resulting in serious injury to DLE personnel or citizens and may review incidents that result in damage to private or State-owned property.

#### **302.2.1 COMPOSITION OF THE BOARD**

If so determined by the Director or Deputy or Assistant Director, the Office of the Director shall convene a Critical Incident/Shooting Review Board and set a date for the Board to meet. The Board shall be chaired by the Deputy Director and shall consist of the following members:

- DLE Deputy Director;
- DLE Assistant Director;
- Senior Assistant Attorney General of the Employment Administration Mandate Section;
- Chief of the involved bureau;
- Chief of an uninvolved bureau;
- DLE Firearms Officer; and
- A representative of the employee's union as designated by the president of the union.

Additional personnel, such as criminalists, industrial hygienists, or witnesses may appear at the request of the Board, or as needed. Other interested Bureau Chiefs may also attend; however, it may be necessary to conduct a closed session with only the Board members present.

The chairperson shall provide copies of all reports to each Board member prior to convening the Board.

### **302.2.2 FINDINGS OF THE BOARD**

Following its deliberations, the Chairperson shall order a report to be prepared that summarizes the incident and details the Board's conclusions and recommendations as they relate to training, procedure, equipment, and policy. A copy of the report will be forwarded to the Director, Deputy or Assistant Director, and the Bureau Chiefs. Bureau Chiefs may distribute the report to their SACs and Lab Managers.

## 304 Shooting Policy

### 304.1 PURPOSE AND SCOPE

The purpose of the shooting policy is to establish procedures for the use and reporting of incidents involving the discharge of firearms. This policy is for internal use only and does not increase the Department's and/or an agent's civil or criminal liability in any way. Violations of this policy can only form the basis for departmental administrative actions.

#### 304.1.1 POLICY

It is the policy of this department to resort to the use of a firearm, when it reasonably appears to be necessary, and generally:

- a. An agent may use deadly force to protect himself/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- b. An agent may use deadly force to effect the arrest or prevent the escape of a suspected felon when the agent has probable cause to believe that the suspect has committed or intends to commit a felony involving the inflicting or threatened inflicting of serious bodily injury or death and the agent reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to others if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force where feasible.
- c. To stop a dangerous animal.
  1. In circumstances where agents encounter a dangerous animal or are surprised by an animal which reasonably appears to pose an imminent threat to the safety of agents or others, agents are authorized to use deadly force to neutralize such a threat.
  2. In circumstances in which agents have sufficient advanced notice that a potentially dangerous domestic animal (e.g. dog) may be encountered, such as in the serving of a search warrant, agents should develop reasonable contingency plans for dealing with the animal without the use of deadly force (e.g. fire extinguisher, Taser, OC Spray, animal control officer). Nothing in this policy shall prohibit any agent from resorting to deadly force to control a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.
- d. With the approval of a supervisor, an agent may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical (Penal Code § 597.1(e)). Injured animals (with the exception of dogs and cats) may be euthanized after a reasonable search to locate the owner has been made (Penal Code § 597.1(b)). Injured dogs and cats found without

their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed.

- e. For target practice at an approved range.
- f. To test the operation of a firearm at an approved range or approved testing site.

Where feasible, a warning should be given before an agent resorts to deadly force as outlined in (a) and (b) above. A specific warning that deadly force will be used is not required by this policy; only that a warning be given if feasible.

### **304.1.2 WARNING SHOTS**

Generally, warning shots or shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the agent reasonably believes that they appear necessary, effective and reasonably safe.

### **304.1.3 MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective and are generally discouraged.

- a. Unless it reasonably appears that it would endanger agents or the public, agents are expected to move out of the path of any approaching vehicle.
- b. This is not intended to restrict an agent's right to use deadly force directed at the operator of a vehicle when it is reasonably perceived that the vehicle is being used as a weapon against the agent or others.
- c. Agents may use deadly force to stop a fleeing suspect when the agent has probable cause to believe that the suspect has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death and the agent reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to others if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force when feasible.

### **304.1.4 REPORT OF WEAPON DISCHARGE**

Except during training or recreational use, any member who discharges a weapon, accidentally or intentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If on-duty at the time of the incident, the member shall file a written report with his/her Bureau Chief prior to the end of shift and if off-duty, as directed by the supervisor, but no later than the end of the next regularly scheduled shift. Task force members shall report shooting incidents to their TFC, who shall then notify the SAC.



## **308 Control Devices and Techniques**

### **308.1 PURPOSE AND SCOPE**

To reduce and minimize altercation-related injuries to agents and suspects, the Department authorizes the use of selected control devices. Certain control devices are provided in order to control violent or potentially violent suspects. It is anticipated that the use of these devices will generally result in fewer altercation-related injuries to agents and suspects. The below procedures are for the use and maintenance of control devices (e.g., baton, chemical agents, etc.). Only those control devices that have been approved by the Director or his/her designee are authorized to be carried by members of this department.

#### **308.1.1 WHEN DEVICES MAY BE USED**

When a decision has been made to restrain or arrest a violent or threatening suspect, an approved control device may only be used when its use appears reasonable under the circumstances.

#### **308.1.2 REVIEW, INSPECTION AND APPROVAL**

Every control device will be periodically inspected by the Rangemaster, or the designated instructor for a particular control device.

#### **308.1.3 TRAINING FOR CONTROL DEVICES**

- a. Only agents trained and having shown adequate proficiency in the use of any control device and this agency's Use of Force policy are authorized to carry the device. Proficiency training must be monitored and documented by the Rangemaster.
- b. Training for all control devices should occur every two years at a minimum, except as follows:
  1. Agents deploying kinetic energy projectiles will complete bi-annual recertification for both the 12-gauge and 40 mm munitions.
  2. Agents trained and authorized to use distraction devices shall complete one "live" deployment of the device twice per calendar year. Field deployment during a tactical operation meets the live deployment requirement.
- c. All training and proficiency for control devices will be documented in the agent's training and firearms qualification files and in a report to the Firearms Officer.
- d. Agents failing to demonstrate proficiency with the weapon or knowledge of this agency's Use of Force policy will be provided remedial training. If, after two additional attempts, an

agent still cannot demonstrate proficiency with a weapon or knowledge of this agency's Use of Force policy, the agent may be subject to discipline.

### 308.1.4 DEFINITIONS

- a. **Chemical Agent** - A munition containing Chloroacetophenone (CN), Oleoresin Capsicum (OC), Orthochlorobenzalmalonitrile (CS), or Hexachlorethane (HC) (Smoke) that may be thrown, sprayed, discharged, or fired into a building or area. This type of munition is deployed to encourage compliance, overcome resistance, provide temporary disablement, and prevent serious injury without posing a significant threat of death. Examples include blast dispersion grenades, liquid- or powder-filled launchable projectiles, and pyrotechnic grenades and projectiles.
- b. **Gas Plan** - A mathematical formula developed to determine the effective and lethal amounts of chemical agents that are to be introduced into an area or structure. The formula does not apply to the use of OC munitions.
- c. **Hot Box** - An altered military ammunition box that is designed to allow for pyrotechnic chemical agents to be deployed inside a structure with substantially less possibility of causing a structural fire. The chemical agent is suspended inside the closed box and is remotely detonated. Holes in the box allow the chemical agent to flow into the structure without the munition coming in direct contact with the walls and/or floor.
- d. **Distraction Device** - A device consisting of a fuse, body, and chemical compound mixture that, when initiated, emits a distracting light and/or sound.

### 308.2 BATON/ASP GUIDELINES

The baton/ASP is authorized for use when, based upon the circumstances perceived by the agent, lesser force would not reasonably appear to result in the safe control of the suspect.

The need to immediately incapacitate the subject should be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the agent reasonably believes the suspect may cause serious bodily injury or death to the agent and/or others.

The approved standard issue baton is the 21" expandable baton; however, agents may purchase (at their own expense) and use the 26" or 31" baton. The Division may, in some circumstances, issue an alternate type of baton for use in specific incidents such as crowd control. Should an alternate type of baton be issued to an agent, that agent shall attend additional DOJ training on the use of that particular baton prior to using it.

### **308.3 TEAR GAS GUIDELINES**

The use of tear gas for crowd control/dispersal or against barricaded suspects shall be based on the circumstances. The SAC or designee may authorize the delivery and use of tear gas, evaluating all conditions known at the time and determining that lesser force would not reasonably appear to result in the safe control of the suspect(s). When practical, fire personnel should be alerted or summoned to the scene to control any fires and to assist in providing medical aid or gas evacuation when the scene is safe. Only agents or supervisors trained in the use of tear gas weapons should discharge such devices at the scene.

### **308.4 CHEMICAL AGENT GUIDELINES**

Only authorized personnel may possess and maintain department-issued chemical agents. Chemical agents are weapons used to minimize the potential for injury to agents, offenders, or other persons. They should be used only in situations where such force reasonably appears justified and necessary.

Only chemical agents authorized and issued by DLE shall be utilized. Upon authorization by the Deputy or Assistant Director, the DLE Firearms Officer may issue memoranda adding or deleting authorized munitions as chemical agent technology advances.

#### **308.4.1 DEPLOYMENT OF CHEMICAL AGENTS**

Agents are not required or compelled to use approved chemical agents in lieu of other reasonable tactics if the involved agents determine that deployment of this type of munition cannot be accomplished safely. The safety of hostages, innocent persons, and agents takes priority over the safety of subjects who are engaged in criminal or suicidal behavior.

- a. Pyrotechnic munitions should not be deployed within a residence or any other structure. Pyrotechnic munitions will only be used in outdoor settings in which their deployment is applicable. Indoor use of pyrotechnic munitions should only be considered if non-pyrotechnic devices have failed. Pyrotechnic munitions deployed indoors must be in a "Hot Box" device unless the use of deadly force is authorized.
- b. Prior to the planned introduction of chemical agents, the supervisor will ensure the completion of a gas plan utilizing the DOJ/DLE Gas Plan Calculation Sheet. The supervisor will review and approve the gas plan prior to the deployment of the chemical agent.
- c. Tactical deployment of chemical agents will be accomplished through one of the following methods:
  1. Blast dispersion or aerosol-type grenades.

2. 12-gauge projectiles that are filled with liquid or powder.
  3. 40 mm projectiles that are filled with liquid or powder.
  4. Pyrotechnic grenades or projectiles.
- d. Smoke-producing munitions should not be deployed inside any structure, unless they are deployed in a "Hot Box" type container.
  - e. The use of smoke-producing munitions will be at the discretion of the supervisor.
  - f. Prior to the planned deployment of chemical agents, the supervisor should ensure that fire and emergency medical services personnel are staged at the outer perimeter for assistance in the event of fire or injury.
  - g. Prior to the deployment of chemical agents, the supervisor should ensure that all agents on the entry/arrest team and/or inner perimeter have been briefed regarding the deployment of chemical agents and are wearing gas masks.
  - h. Once the chemical agents have been deployed into a hostile area, the supervisor will ensure that all members of the entry/arrest team and/or the inner perimeter have been notified of the deployment.
  - i. All suspects who have been exposed to chemical agents should be controlled and taken into custody as soon as possible. These persons shall be decontaminated at the scene and transported to a medical facility for examination prior to jail booking.
  - j. Once secured, the target area should be ventilated as soon as possible in order to allow the chemical agents to dissipate and start the decontamination process per the DOJ Chemical Agent Decontamination Procedures.

### **308.4.2 CARRYING OF OLEORESIN CAPSICUM SPRAY**

Uniformed field personnel carrying the oleoresin capsicum spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry the oleoresin capsicum spray as authorized, consistent with the needs of their assignment or at the direction of their supervisor.

Canisters involved in any type of malfunction or damage shall be turned in to the Rangemaster for exchange.

### **308.4.3 PEPPER PROJECTILE SYSTEMS**

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. A compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact, releasing the OC powder. The potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel deploying a pepper projectile system should not intentionally target those areas, except when the agent reasonably believes the individual may cause serious bodily injury or death to the agent or others. The use of a pepper projectile system is subject to the following requirements:

(a) Agents encountering a situation that requires the use of a pepper projectile system shall notify a supervisor as soon as practical. The supervisor shall respond to all pepper projectile system deployments where the suspect has been hit. The SAS or agent in charge of the scene shall make all notifications and reports as required by § 300 Use of Force Policy.

(b) Only personnel certified as having completed Department-approved training on the use of pepper projectile systems shall be allowed to deploy and use pepper projectile systems.

(c) Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward the suspect, whether or not the launcher was used. Accidental discharges shall be promptly reported to a supervisor and documented in the appropriate report. Only non-incident deployments, such as training and product demonstrations, are exempt from the reporting requirement.

### **308.4.4 TREATMENT FOR CHEMICAL AGENT EXPOSURE**

Persons who have been affected by the use of chemical agents should be promptly provided with the proper solution to cleanse the affected areas. Those persons who complain of further severe effects shall be afforded a medical examination by competent medical personnel.

Once the target area is secure, the decontamination process shall commence in accordance with the DOJ Chemical Agent Decontamination Procedures. See section 8.0 of the Clandestine Laboratory Manual of Instructions and Procedure for complete procedures.

### **308.5 KINETIC ENERGY PROJECTILES**

This department is committed to reducing the potential for violent confrontations when suspects are encountered. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury.

Kinetic energy projectiles are approved by the Department and are fired from 12-gauge shotguns or 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

### **308.5.1 DEPLOYMENT OF KINETIC ENERGY PROJECTILES**

Approved munitions are justified and may be used to compel an individual to cease his or her actions when such munitions present a reasonable option for resolving the situation at hand.

Agents are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved agents determine that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons, and agents takes priority over the safety of subjects engaged in criminal or suicidal behavior.

All involved personnel must be notified of the impending deployment of less lethal munitions in order to avoid sympathetic fire. A cover agent with lethal option shall be assigned to protect the agent deploying the less lethal munition.

### **308.5.2 EXAMPLES OF CIRCUMSTANCES APPROPRIATE FOR DEPLOYMENT**

Examples include, but are not limited to, the following types of situations where the subject:

- a. Is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- b. Has made credible threats to harm himself or others.
- c. Is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at people and/or agents.

### **308.5.3 DEPLOYMENT CONSIDERATIONS**

Before discharging projectiles, the agents should consider the following factors:

- a. Severity of the crime or incident.
- b. Subject's capability to pose an imminent threat to the safety of agents or others.
- c. If the subject is actively resisting arrest or attempting to evade arrest by flight.
- d. The credibility of the subject's threat as evaluated by the agents present, and physical capacity/capability.
- e. The proximity of weapons available to the subject.
- f. The agent's versus the subject's physical factors (e.g., age, size relative strength, skill level, injury/exhaustion, the number of agent(s) versus subject(s)).

- g. The availability of other force options and their possible effectiveness.
- h. Distance and angle to target.
- i. Type of munitions employed.
- j. Type and thickness of subject's clothing.
- k. The subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

#### **308.5.4 DEPLOYMENT DISTANCES**

Agents should keep in mind the manufacturer's recommendations regarding deployment when using control devices, but are not solely restricted to use according to these manufacturer recommendations. Each tactical situation must be evaluated on the totality of circumstances at the time of deployment.

#### **308.5.5 SHOT PLACEMENT**

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted when deadly force is not reasonably justified.

Agents should generally follow the manufacturer's recommendations regarding minimum deployment distances and target areas; however, any target area or distance may be considered when it reasonably appears necessary to accomplish immediate incapacitation in order to prevent serious injury or death and other reasonable methods have failed or reasonably appear ineffective.

#### **308.5.6 APPROVED MUNITIONS**

Only Department-approved kinetic energy munitions shall be carried and deployed. These may include bean bags, launchable wooden, foam or rubber projectiles and blast dispersion-type grenades containing rubber balls and/or chemical agents. Shotguns designed for the use of 12-gauge projectiles are marked with an orange-colored foregrip and stock. These dedicated shotguns shall not be loaded with conventional ammunition.

### **308.5.8 LOADING PROCEDURES**

Absent compelling circumstances, agents will employ the two-person rule for loading. The two-person rule is a safety measure achieved by having a second agent watch the loading process to verify that the weapon has been loaded with the correct type of munition.

## **308.6 RESPONSIBILITIES**

### **308.6.1 SAC RESPONSIBILITIES**

The SAC shall monitor the use of control devices in the same manner as all other use of force incidents.

- a. The SAC may authorize the use of a control device by selected personnel or members of specialized units provided the person(s) authorized has/have the required training. The request for a control device should be made through the SAC.
- b. The SAC shall review each use of control devices by any personnel within his or her command.
- c. The SAC shall ensure training on the use of control devices is provided as needed.

### **308.6.2 FIREARMS OFFICER RESPONSIBILITIES**

The Firearms Officer shall control the inventory and shall issue all control devices. All damaged, inoperative and/or expended control devices shall be returned to the Firearms Officer for disposition, repair or replacement.

### **308.6.3 MAINTENANCE RESPONSIBILITY**

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

### **308.6.4 LESS LETHAL MUNITIONS LOG RESPONSIBILITY**

Each lead Rangemaster shall be responsible for maintaining a Less Lethal Munitions Log (DLE 131) for his/her command. This log shall document the inventory of munitions, including the date of receipt, expiration date, date of use, deploying agent, device serial number, if applicable, and the purpose for which it was deployed.



## **308.7 DISTRACTION DEVICES**

Only Department-approved and -issued distraction devices shall be used. The Firearms Officer shall list approved distraction devices in the DLE Firearms Manual.

### **308.7.1 PROHIBITIONS**

Distraction devices shall not be used in the following circumstances:

- When children 12 years of age or younger are known to be present.
- Inside clandestine laboratories.
- In the presence of anyone who is known to have a physical ailment that may be aggravated to the point of injury by the use of the device.
- Where information is obtained regarding the presence of greater than normal quantities of chemicals and/or flammable liquids.
- When explosives are present.

Regional offices may elect to maintain a supply of distraction device training units for qualification purposes only. The Firearms Officer shall list designated training units in the DLE Firearms Manual. Training units shall not be used during field operations.

## **308.8 REPORTING USE OF CONTROL DEVICES**

Any application of a device listed within this policy shall be documented pursuant to Policy Manual §§ 300 and 344. In addition, any such application that results in a complaint of injury or subsequent claim of injury by an individual shall also be documented in an investigation report.

- a. Agents who deploy any chemical agent in performance of their official duties, except during approved training, must immediately report the incident to their supervisor. In the event of the agent's inability to comply with this reporting requirement, the responsibility to report this incident shall rest with all agents who witnessed the incident. Within 24 hours, the deploying agent shall document the details of the incident in a memorandum. The memorandum will be forwarded to the appropriate SAC. This information will also be included in the arrest/investigation report.
- b. A Chemical Agent Munitions Use Report form (DLE 127) shall be completed following all incidents other than those involving the use of OC aerosol. The report shall be reviewed and initialed by the SAC and placed in the case file. A copy of the report will be forwarded to the Firearms Officer within 10 days of the incident for review. A copy of the completed Gas Plan Calculation Sheet (DLE 129) shall be attached to the DLE 127.

### **308.9 STORAGE, HANDLING AND TRANSPORTATION**

Less lethal munitions shall be stored according to the manufacturer's recommendations. In general, they should be stored in their original container in a cool, dry place. Munitions that have been removed from their original containers shall be clearly and conspicuously marked to prevent misidentification.

Under no circumstances shall any person be authorized to tamper with, or alter in any manner, any less lethal munition. All misfires shall be recovered, rendered safe, and removed from service. Munitions that have malfunctioned or have been damaged during shipping shall be returned to the manufacturer and the Firearms Officer notified.

Items deployed during training or operations shall be logged and recorded by serial number on the inventory log by the Rangemaster as appropriate.

Distraction devices/reloads carried in agent vehicles shall be stored in the trunk of the vehicle in a separate container that will provide protection/immobilization in case of a vehicle collision. These devices shall not be stored in the agent's load bearing vest or leg pouches. They shall be removed from the vest/leg pouch and placed into the storage container in the vehicle's trunk after every operation.

## **309 TASER™ Guidelines**

### **309.1 PURPOSE AND SCOPE**

The TASER® device is intended to control a violent or potentially violent individual while minimizing the risk of serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects.

### **309.2 POLICY**

Personnel who have completed Department-approved training may be issued a TASER for use during their current assignment. Personnel leaving a particular assignment may be expected to return it to the department's inventory.

Agents shall only use the TASER and cartridges that have been issued by the Department. The device may be carried either as a part of a uniformed agent's equipment in an approved holster or secured in the driver's compartment of the agent's vehicle so that it is readily accessible at all times.

When the TASER is carried as a part of an agent's equipment, the TASER shall be carried on the side opposite the duty weapon.

- a. All TASERs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- b. Whenever practical, agents should carry a total of two or more TASER cartridges on their person when carrying the TASER.
- c. Agents shall be responsible for insuring that their issued TASER is properly maintained and in good working order at all times.
- d. Agents should never hold both a firearm and the TASER at the same time.

#### **309.2.1 ASSIGNMENT OF TASERS**

TASER devices will be assigned, as the Division's supply permits, to agents identified by their respective Bureau Chiefs as having an operational need to carry the TASER.

An inventory of unassigned TASER devices, if any, may be maintained in each regional office and made available to qualified agents on an as-needed basis. The lead Rangemaster for each regional office shall be responsible for managing the inventory and ensuring that all unassigned TASER devices are properly maintained and in good working order at all times.

### **309.2.2 REPLACEMENT CARTRIDGES**

The DLE Firearms Officer will coordinate the purchase of all TASER cartridges. Requests for replacement cartridges must be submitted in writing to the DLE Firearms Officer.

### **309.3 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the TASER should precede its application, unless it would otherwise endanger the safety of agents or when it is not practicable due to the circumstances. The purpose of the warning is for the following:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other agents and individuals with a warning that a TASER may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an agent's lawful orders and it appears both reasonable and practical under the circumstances, the agent may, but is not required to, display the electrical arc (provided there is not a cartridge loaded into the TASER) or the laser in a further attempt to gain compliance prior to the application of the TASER. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal and/or other warning was given or reasons it was not given shall be documented by the agent deploying the TASER in the related reports.

### **309.4 USE OF THE TASER**

As with any law enforcement equipment, the TASER has limitations and restrictions requiring consideration before its use. The TASER should only be used when its operator can safely approach the subject within the operational range of the TASER. Although the TASER is generally effective in controlling most individuals, agents should be alert to the potential for failure and be prepared with other options.

#### **309.4.1 FACTORS TO DETERMINE REASONABLENESS OF FORCE**

The application of the TASER is likely to cause intense, but momentary, pain. As such, agents should carefully consider and balance the totality of circumstances available prior to using the TASER including, but not limited to, the following factors:

- a. The conduct of the individual being confronted (as reasonably perceived by the agent at the time).
- b. Agent /subject factors (i.e., age, size, relative strength, skill level, injury/exhaustion, number of agents vs. subject(s)).

- c. Influence of drugs/alcohol (mental capacity).
- d. Proximity of weapons.
- e. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- f. Time and circumstances permitting, the availability of other options (what resources are reasonably available to the agent under the circumstances).
- g. Seriousness of the suspected offense or the reason for contact with the individual.
- h. Training and experience of the agent.
- i. Potential for injury to citizens, agents and suspects.
- j. Risk of escape.
- k. Other exigent circumstances.

### **309.4.2 APPLICATION OF THE TASER**

Authorized personnel may use the TASER when circumstances known to the agent at the time indicate that such application is reasonable to control a person in any of the following circumstances:

- a. The subject is violent or physically resisting.
- b. A subject who by words or action has demonstrated an intention to be violent or to physically resist and who reasonably appears to present the potential to harm agents, him/herself or others.
  - 1. When practicable, the agent should give a verbal warning of the intended use of the TASER followed by a reasonable opportunity to voluntarily comply.
  - 2. The agent must be able to articulate a reasonable belief that other available options appeared ineffective, impractical or would have presented a greater danger to the agent, the subject or others.
- c. Absent meeting the conditions set forth in (a) or (b) above, or a reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from a pursuing agent shall not serve as good cause for the use of the TASER to apprehend an individual.

### **309.4.3 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the TASER should generally be avoided in the following situations unless the totality of the circumstances indicate that other available options reasonably appear ineffective, impractical, or would present a greater danger to the agent, the subject or others, and the agent reasonably believes that the need to control the individual outweighs the risk of using the TASER:

- a. Pregnant females.
- b. Elderly individuals or obvious juveniles.
- c. Individuals who are handcuffed or otherwise restrained.
- d. Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any flammable material.
- e. Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER in the drive-stun mode (i.e., direct contact without darts) relies primarily on pain compliance and requires close proximity to the subject, additional caution should be exercised. The application in drive-stun mode should be limited to brief applications in which pain compliance would reasonably appear necessary to achieve control.

The TASER shall not be used to torture, psychologically torment, elicit statements or to punish any individual.

### **309.4.4 TARGETING CONSIDERATIONS**

While manufacturers generally recommend that reasonable efforts should be made to target lower center mass and to avoid intentionally targeting the head, neck, chest and groin, it is recognized that the dynamics of each situation and officer safety may not permit the agent to limit the application of the TASER darts to a precise target area. As such, agents should take prompt and ongoing care to monitor the condition of the subject if one or more darts strikes the head, neck, chest or groin until he/she is released to the care of paramedics or other medical personnel.

### **309.4.5 MULTIPLE APPLICATIONS OF THE TASER**

If the first application of the TASER appears to be ineffective in gaining control of an individual and if circumstances allow, the agent should consider the following before additional applications of the TASER:

- a. Whether the probes or darts are making proper contact.
- b. Whether the application of the TASER is interfering with the ability of the individual to comply.
- c. Whether verbal commands, other options or tactics may be more effective.

This, however, shall not preclude any agent from deploying multiple, reasonable applications of the TASER on an individual.

### **309.4.6 REPORT OF USE**

Except during training, all TASER discharges shall be reported in conformance with Division policy for reporting critical incidents (Critical Incident Manual § II.B.). All TASER discharges shall be documented in the related arrest/crime report, on a Use of TASER Report form (DLE 235) and notification made to a supervisor in compliance with Policy § 300.4.1. Accidental discharges of a TASER cartridge will also be documented on the TASER report form. Any report documenting the discharge of a TASER cartridge will include the cartridge serial number and an explanation of the circumstances surrounding the discharge.

The onboard TASER memory will be downloaded through the data port by the Rangemaster and saved with the related arrest/crime report. Photographs of probe sites should be taken, Anti-Felon Identification (AFID) tags should be collected and the expended cartridge along with both probes and wire should be submitted by the agent collecting the cartridge into evidence for future reference. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

### **309.5 MEDICAL TREATMENT**

Absent extenuating circumstances or unavailability, only qualified medical personnel, including certified paramedics, should remove TASER darts from a person's body.

Used TASER darts should be considered a sharp biohazard, similar to a used hypodermic needle. Universal precautions should be taken accordingly.

All persons who have been struck by TASER darts or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such

individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- a. The person is suspected of being under the influence of controlled substances and/or alcohol.
- b. The person may be pregnant.
- c. The person reasonably appears to be in need of medical attention.
- d. The TASER darts are lodged in a sensitive area (e.g., groin, female breast, near the eyes).
- e. The person requests medical treatment.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple agents to bring under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

If any individual refuses medical attention, such a refusal should be witnessed by another agent and/or medical personnel and shall be fully documented in related reports.

If an audio recording is made of the contact or an interview with the individual, any refusal should be included if possible.

The transporting agent shall inform any person receiving custody or any person placed in a position of providing care that the individual has been subjected to the application of the TASER.

### **309.6 TRAINING**

Every DLE agent at or below the rank of SAC is required to maintain current TASER certification, even if he/she does not have a personally assigned TASER. In addition to the initial department approved training required to carry and use a TASER, all affected agents must be recertified annually by a department approved TASER instructor prior to continuing to carry or use the device. A reassessment of an agent's knowledge and/or practical skill may be required at any time if deemed appropriate.

The TASER instructor should ensure that all training includes the following:

- a. A review of this policy.



- b. A review of the Use of Force policy.
- c. Target area considerations, to include techniques or options to reduce the intentional application of probes near the chest, groin, neck and head.
- d. De-escalation techniques.

## **312 Firearms**

### **312.1 PURPOSE AND SCOPE**

This policy establishes procedures for the acquisition, use, and documentation of training in the use of firearms. The Director or his or her designee shall approve all Department firearms before they are acquired and utilized by any member of this department.

Refer to Policy Manual § 432 for additional provisions applicable to shoulder weapons.

### **312.2 AUTHORIZED WEAPONS**

No firearms will be carried that have not been thoroughly inspected by the Firearms Officer during a regularly scheduled range date. Except in an emergency, or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that weapon at an authorized Department range.

The following weapons are approved for use by agents of this department:

#### **312.2.1 DUTY WEAPONS**

The authorized departmental-issued handgun is the .40 Glock, models 22 (standard) and 23 (compact). The 9 mm Glock is also approved for on-duty use.

#### **312.2.2 AUTHORIZED SECONDARY WEAPONS**

The authorized secondary duty handgun is a Glock model 26 or 27 sub-compact pistol. Agents desiring to carry a secondary weapon are subject to the following restrictions:

- (a) The secondary weapon may not be used for planned enforcement or surveillance operations.
- (b) Only one secondary weapon may be carried at a time.
- (c) The purchase of the weapon and ammunition shall be the responsibility of the agent.
- (d) The weapon shall be carried out of sight at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.
- (e) The weapon shall be subject to inspection whenever deemed necessary.
- (f) Ammunition shall be provided by the Department.

(g) Personnel shall qualify with the secondary weapon under range supervision. Agents must demonstrate their proficiency, safe handling and serviceability of the weapon.

(h) The Rangemaster shall provide written notice of the inspection date, make, model, color, serial number, and caliber of a second weapon to the Firearms Officer.

(i) If the agent is unable to carry the secondary weapon on his/her person, it shall be secured in the agent's vehicle safe in accordance with § 312.3.2 of this policy.

### **312.2.3 AUTHORIZED OFF-DUTY WEAPONS**

The carrying of firearms by sworn agents while off duty is permitted by the Director, but may be rescinded should circumstances dictate (e.g., administrative leave). Sworn agents who choose to carry a firearm while off duty, based on their authority as a peace officer, will be required to meet the following guidelines:

(a) The action types and calibers approved for off-duty weapons are the same as those specified in Policy Manual § 312.2.7 for back-up and undercover weapons.

(b) The purchase of the weapon and ammunition shall be the responsibility of the agent.

1. Penal Code § 26950 allows full-time paid peace officers to avoid the waiting periods imposed on the purchase and transfer of firearms by presenting written certification from the agency head to the dealer at the time of purchase or transfer. This certification, which is issued on DOJ letterhead and signed by the Director, may be obtained by submitting a written request to the Director via the Bureau Chief. The issuance of any such written certification is at the discretion of the Director.

(c) The weapon shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.

(d) It will be the responsibility of the agent to submit the weapon to the Rangemaster for inspection prior to being carried off-duty. The Rangemaster shall ensure that the agent is proficient in handling and firing the weapon and that it will be carried in a safe manner. The weapon shall be subject to periodic inspection by the Rangemaster. The agent will successfully qualify with the weapon prior to it being carried and thereafter once every quarter. The range qualification dates will be specified by Rangemaster.

(e) A complete description of the weapon(s) shall be contained on the qualification record approved by the Rangemaster.

(f) If any member desires to use more than one weapon while off duty, he/she may do so, as long as the agent meets all the requirements set forth in this policy for each weapon used.

(g) Agents shall only carry department-authorized ammunition.

(h) When armed, whether on- or off-duty, except during an undercover assignment, agents shall carry their badge and department identification.

(i) Off-duty weapons must be capable of firing a minimum of five rounds without reloading.

### **312.2.4 AMMUNITION**

Agents shall carry only department-authorized ammunition. Agents shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the agent's first scheduled qualification each year. Agents carrying personally owned authorized firearms of a caliber differing from department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Firearms Officer when needed in accordance with established policy.

Ammunition types and calibers approved for use in duty weapons are:

- a. .380 ACP
- b. 9 mm parabellum
- c. .38 Special
- d. .357 S&W magnum
- e. .40 S&W
- f. .45 ACP
- g. 12-gauge 00 buckshot
- h. 12-gauge rifled slug
- i. .223 Remington

The DLE Firearms Officer will issue an annual list of specific ammunition brands and load numbers that have been approved for purchase. This list will reflect ammunition listed on the current Department of General Services (DGS) ammunition contract. This list may also include specific types of ammunition that are not on the DGS contract, but that have been approved by the DLE Firearms Officer based on a specific demonstrated need. Only ammunition on this list or specific ammunition that has been approved in writing by the DLE Firearms Officer shall be purchased. BFS utilizes various types of ammunition for testing purposes and does not require

approval from the DLE Firearms Officer for the purchase of ammunition. However, BFS shall use the DGS contract when purchasing ammunition, unless the desired ammunition is not available through the contract. Any purchases made outside the contract shall comply with DOJ purchasing and procurement policies.

### **312.2.5 ALCOHOL & DRUGS**

Weapons shall not be carried by any agent who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the agent's senses or judgment.

### **312.2.6 TACTICAL LIGHTS**

Personally-owned tactical lights may be affixed to Department-issued weapons only if all the following conditions are met:

- a. The tactical light is an approved model. Approved models are the Glock "Safe-Action," the Streamlight M-3, and Surefire.
- b. The Department-issued weapon is designed to accept a tactical light. Weapons designed to accept a tactical light are issued on an "as available" basis.
- c. The agent provides a personally-owned holster that is specifically designed to carry the handgun with the light attached. The holster shall be inspected for suitability and weapon retention and approved by the Rangemaster prior to use. Use of a separate belt carry pouch for the tactical light is not permitted.

During quarterly qualifications, agents shall qualify with the light attached to the weapon. Any costs associated with obtaining the tactical light and holster shall be borne by the agent electing to use a personally-owned tactical light.

### **312.2.7 *Not subject to disclosure due to agent safety concerns***

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### **312.2.8 PERSONALLY-OWNED WEAPONS**

All agents whose employment began on or after January 1, 2000, are required to carry their Department-issued weapon for general duty purposes. Agents who were hired prior to January 1, 2000, may continue to use personally-owned weapons provided that they were range-qualified with those weapons prior to January 1, 2000, and the weapons meet the requirements of this section.

All authorized personally-owned duty weapons shall continue to meet all manual requirements, including but not limited to annual fitness for duty certifications by a factory-authorized armorer, and approvals from the appropriate range masters and SACs, Chiefs, and Director. Agents hired prior to January 1, 2000, who elect to carry a personally-owned primary duty weapon other than the one they were carrying on January 1, 2000, shall not be allowed to change the make, model or caliber. Agents desiring to change a primary duty weapon shall change to the DLE-issued duty weapon.

- a. All personally-owned handguns used pursuant to this section shall be registered with DOJ. Each handgun shall be registered specifically to the agent using the handgun. The purchase of a handgun for use in an agent's official duties shall be made pursuant to Penal Code § 26950. Following the purchase, the agent's SAC shall ensure that a printout of the Automated Firearms System record of the transaction is obtained and given to the employee for submission with his/her request to use the handgun. If the handgun is obtained in a manner other than a purchase pursuant to Penal Code § 26950 (i.e. gift, transfer, already owned, etc.), the employee is responsible for registering the handgun with the BOF. A copy of the BOF registration confirmation letter shall be forwarded to the DLE Firearms Officer with the request. The proof of registration and request shall be maintained by the DLE Firearms Officer for the duration of the time that the personally-owned handgun is in use.
- b. Any costs associated with obtaining holsters, magazines, other required equipment, an armorer's certification, and registration shall be borne by the agent electing to carry his/her personally owned weapon(s).
- c. All requests to carry a handgun other than a DOJ issued weapon, including reasonable accommodation exception requests, shall be submitted to the requesting employee's Bureau Chief via the chain of command. After making his/her recommendation, the Bureau Chief shall forward all requests to the DLE Firearms Officer. The DLE Firearms Officer shall make a recommendation and forward the request to the Deputy or Assistant Director. The Deputy or Assistant Director shall make the final determination on all requests. The Deputy or Assistant Director shall return the request to the Bureau Chief, who shall notify the requesting individual, the DLE Firearms Officer, and, when appropriate, the requesting individual's supervisor of the decision.

### **312.3 SAFE HANDLING OF FIREARMS**

The intent of this policy is to promote proper firearm safety on and off duty. Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

#### **312.3.1 SAFETY CONSIDERATIONS**

- a. Agents shall not unnecessarily display or handle any firearm.
- b. Agents shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Agents shall not dry fire or practice quick draws except under Rangemaster supervision.
- c. Any member who discharges his/her weapon accidentally or intentionally, on- or off-duty, except during training or recreational use, shall make a verbal report to his/her supervisor as soon as circumstances permit and, if the occurrence was on-duty, shall file



a written report via the chain of command with their Bureau Chief prior to the end of shift. If off-duty, as directed by the supervisor.

- d. Agents shall not clean, repair, load or unload a firearm anywhere in a Department facility, except where clearing barrels are present.
- e. Shotguns or rifles removed from vehicles or an equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle.
- f. Agents shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked. No one shall carry firearms into a jail or any part thereof when securing or processing a prisoner, but shall place all firearms in a secured location.
- g. Any weapon authorized by the Department to be carried on- or off-duty that is found by the agent to be malfunctioning or needing service shall not be carried and shall be promptly presented to the Rangemaster for inspection. Any weapon determined to be in need of service or repair during an inspection by the Rangemaster, will be immediately removed from service. If the weapon is the agent's primary duty weapon, a replacement weapon will be issued to the officer until the duty weapon is again rendered serviceable.

### **312.3.2 STORAGE OF FIREARMS AT HOME**

Agents shall ensure that all firearms and ammunition are locked and secured while in their homes in a manner that will keep them inaccessible to children and irresponsible adults. Each agent is issued a Firearm Safety Device (FSD) for this purpose. The FSD shall be located in a secure location within the residence that is not readily accessible to family members, roommates, etc. The FSD shall be locked whenever it contains a weapon.

- a. The FSD comes with an optional mounting bracket for home use. At the employee's discretion, the mounting bracket may be used to secure the FSD in his/her residence. If the employee elects to use the mounting bracket, he/she shall assume the responsibility and cost for installing and/or removing the bracket.
- b. The FSD has a pre-set combination and an affixed DOJ decal. For security reasons, agents are allowed to change the pre-set combination of their home FSD. Knowledge of the combination shall be limited to the agent, his/her supervisor, and the DLE Firearms Officer.
- c. If changing the pre-set combination of the home FSD, agents shall complete an FSD Combination Record Form (FD 4502). Once completed, the FSD Combination Record Form shall be forwarded to the agent's supervisor. All subsequent combination changes shall also be submitted on a FSD Combination Record Form to the agent's supervisor.

- d. Upon receipt of the FSD Combination Record Form, the supervisor shall retain one copy in his/her safe and forward a copy to the DLE Firearms Officer for retention in a locked back-up file. Agents at or above the rank of SAC shall forward their FSD Combination Record Forms directly to the DLE Firearms Officer. Agents may contact their supervisor or the DLE Firearms Officer if they are unable to remember the combination code to their home FSD.
- e. Upon separation from DOJ or transfer out of DLE, agents shall return their home FSD and mounting bracket (if applicable) to their supervisor, who shall ensure that the items are forwarded to the OD. Agents must provide the combination code on the FSD Combination Record Form when returning the FSD to the OD.

It is permissible for agents to secure their Department-issued firearm(s) and ammunition in a locked gun safe at their residence. The gun safe must be a commercially produced brand that meets or exceeds the quality of the FSD.

Agents shall be aware that negligent storage of a firearm could result in criminal prosecution under Penal Code § 25100.

While appearing in court, agents shall follow each individual court's weapon security policy.

### **312.3.3 STORAGE OF FIREARMS IN VEHICLES**

Firearms transported and/or stored in an agent's vehicle, other than the firearm(s) carried on the agent's person, shall be secured in the following manner:

- a. The firearm(s) shall be stored in the assigned vehicle's FSD or electronic locking system (ELS) located in the trunk of a car, in a locked container/shell within the bed of a truck, or in the enclosed rear area of a sports utility vehicle. The vehicle, including the completely enclosed area containing the FSD, must be locked and alarmed at all times when the vehicle is unattended. All vehicle FSDs shall retain the same padlock and combination safe numbers as assigned by the RCU at the time of installation. The vehicle FSD may not be changed without prior approval from the OD. Vehicle FSDs, either mounted or secured by chain and lock, shall be included as part of the vehicle equipment inventory on the Special Agent Equipment Inventory form (JUS 1444); however, the FSD will not transfer with the agent and will remain with the vehicle. For additional provisions pertaining to storage of shoulder weapons in vehicles, see Policy Manual § 432.9.
- b. While attending Defensive Tactics training, handguns shall be secured within the assigned vehicle's trunk, or, if equipped, in the vehicle's firearm safe as required by this section.
- c. While on duty, agents shall secure any additional authorized handguns within the assigned vehicle's trunk, the vehicle's firearm safe and/or ELS system, in a locked,

secured container/shell within the bed of a truck, or in the enclosed, locked rear area of a sports utility vehicle as required by this section. This includes additional handguns that agents would not need to have readily available (e.g., back-up weapon, secondary duty weapon, and undercover weapon).

### **312.4 FIREARMS QUALIFICATIONS AND TRAINING**

- a. All sworn personnel are required to qualify quarterly with their duty weapon on an approved range course. One quarterly qualification per year shall include low light conditions.
  1. The Rangemaster shall keep accurate records of quarterly qualifications, repairs, maintenance, training or as directed by the Training Officer.
  2. The Rangemaster shall inspect each weapon and holster that will be used during the training session to determine readiness, suitability, function, and weapon retention.
- b. In addition to regular qualification schedules, the Rangemaster shall be responsible for providing all sworn personnel assigned to his/her regional office with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm shall receive training on the department Use of Force policy and demonstrate their knowledge and understanding.
  1. The training presented during each quarter is selected by the Firearms Officer based upon identified needs of the field, POST-mandated training requirements, and bureau-specific priorities. The training usually consists of POST-approved Skills and Knowledge (S&K) Modules that range from four to eight hours in duration. The S&K Modules are detailed in the DLE Firearms and Training Manual.
  2. The Firearms Officer shall issue a memorandum to the bureaus prior the start of each quarter outlining the training to be presented for the quarter, the appropriate ATRS code(s), and associated training materials. Upon receipt of the training memo, the SAC is responsible for ensuring that the training is presented and processed in accordance with the DLE Firearms and Training Manual.
  3. The results of the quarterly training sessions shall be documented by the Rangemaster and retained in the employees' regional office training files. The documentation shall identify each weapon as to make, caliber, type, and serial number and shall be entered into ATRS. At the completion of each training session, the Rangemaster shall prepare a memorandum documenting the names and titles of the employees who attended. The memorandum shall be submitted to the SAC, and a copy shall be retained by the Rangemaster.

- c. Agents qualifying with Department-approved personally-owned handguns shall be limited to a maximum of four per qualification:
  - 1. Primary duty weapon.
  - 2. Back-up weapon.
  - 3. Undercover weapon.
  - 4. Glock model 26 or 27 secondary duty weapon.

### **312.4.1 NON-QUALIFICATION**

If any agent is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, that agent shall submit a memorandum to his or her immediate supervisor prior to the end of the required shooting period. Agents who are unable to qualify due to an excused absence or unavoidable exigent circumstances shall make arrangements with the Rangemaster to attend a makeup session as soon as practical before the end of the next quarter. If the agent is absent for ninety (90) days or longer, he/she shall undergo remedial training.

Members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow.

Sworn members who fail to qualify on their first shooting attempt shall be provided remedial training until proficiency is demonstrated and will be subject to the following requirements:

- a. Additional range assignments may be required until consistent weapon proficiency is demonstrated.
- b. Members shall be given credit for a range qualification after remedial training and a qualifying score is obtained.
- c. No range credit will be given for the following:
  - 1. Unauthorized range makeup.
  - 2. Failure to qualify after remedial training.

If any agent fails to qualify in a quarter due to lack of ability or failure to attend a range qualification sometime during the quarter, the Rangemaster shall within five working days of the end of the quarter prepare a memorandum to the SAC identifying the personnel who failed to qualify and the reasons they did not qualify. Copies of the memorandum shall be forwarded to bureau headquarters and the Firearms Officer.

## **312.5 FIREARMS OFFICER DUTIES**

The Firearms Officer is assigned to the Office of the Director and is responsible for designing, updating, and coordinating firearms training. Duties also include certifying Regional Office Rangemasters and agents who use submachine guns, rifles and shotguns. The Firearms Officer instructs the submachine gun school, officer survival and firearms training; conducts ongoing research into weapons, ammunition, and survival equipment; assists in the selection of weapons and camouflage uniforms; performs bill analyses of legislation impacting firearms; and serves as an expert witness for the Department.

### **312.5.1 REGIONAL OFFICE RANGEMASTER DUTIES**

Each regional office shall have an appointed Rangemaster, who must be a graduate of a POST/DOJ-approved rangemaster course and must attend all required supplemental training for rangemasters. The Rangemaster ensures and supervises the presentation of quarterly firearm qualification and training for sworn personnel at the regional office, instructs sworn personnel in the safe handling of various weapons, and orders ammunition and range equipment to maintain an adequate inventory.

The range will be under the exclusive control of the Rangemaster. All members attending will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all members attending the range. Failure of any agent to sign in and out with the Rangemaster may result in non-qualification.

The range shall remain operational and accessible to Department members during hours established by the Department.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty weapons carried by agents of his/her regional office to verify proper operation. The Rangemaster has the authority to deem any privately-owned weapon unfit for service. The agent will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Rangemaster.

The Rangemaster shall report all training, qualification and inspections as described in this policy, along with any recommended corrective action, to the SAC via memorandum.

When an assistant rangemaster is added, the Rangemaster is responsible for providing him/her with an instructor and for notifying the Firearms Officer. In addition, every Rangemaster shall submit to the Firearms Officer an annual roster of names of the lead and any assistant rangemasters in his/her regional office.

## **312.6 MAINTENANCE AND REPAIR**

Firearms carried on duty shall be maintained in a clean, serviceable condition. Since the use of personally owned weapons is at the option of the individual agent, within the parameters of Policy Manual § 312.2.8, that agent will be responsible for the furnishing, maintenance and repair of such weapon.

### **312.6.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS**

The Firearms Officer shall be the only person authorized to repair or modify any Department-owned weapon. All repairs and/or modifications of Department-issued weapons not performed by the Firearms Officer must be approved in advance by the Firearms Officer and accomplished by a Department-approved gunsmith. The sole exception to this requirement is the installation of a rubber grip cover on a Glock handgun.

Accessories affixed to Department-approved firearms, such as sighting devices, may not be altered or removed without the Firearms Officer's advance written approval. If approval is granted, the accessory shall be sent to the Firearms Officer so that it may be returned to inventory for future use.

Any repairs or modifications to the agent's personally-owned weapon shall be done at his or her expense and must be approved by the Rangemaster. Once the repair/modification has been completed, the Rangemaster shall inspect the weapon and document the inspection in a memorandum prior to placing the weapon back into service. A copy of the memorandum will be maintained by the Rangemaster and a copy provided to the appropriate supervisor.

### **312.7 *Not subject to disclosure due to agent safety concerns***

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## **312.8 CARRYING FIREARMS OUT OF STATE**

Qualified active full-time agents and qualified retired agents (see Policy Manual § 220) of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 United States Code 926B and C):

- a. The agent shall carry his/her Department identification credentials/card whenever carrying such weapon.
- b. Qualified retired agents shall also carry certification of having met firearms qualification within the past 12 months.
- c. The agent is not the subject of any current disciplinary action.
- d. The agent may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- e. The agent will remain subject to this and all other Department policies (including qualifying and training).

Agents are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 United States Code 926B and C.

## **312.9 LOAN OF FIREARMS**

Department-owned firearms shall not be loaned or assigned to individuals or agencies outside of DOJ without prior written authorization from the Director or designee. A request to loan or assign a Department-owned firearm to a task force member shall only be considered after the individual has completed the required DOJ training course(s) and has demonstrated proficiency with the firearm.

## **312.10 ACQUISITION OF FIREARMS**

Firearms shall only be purchased or ordered by the DLE Firearms Officer.

TFCs shall not purchase or order firearms on task force letterhead. Firearms shall be obtained for local officers assigned to task forces by their employing agencies.



### **312.10.1 LETTERHEAD PURCHASES**

Penal Code § 26815 imposes a 10-day waiting period on the delivery of firearms. Penal Code § 26950 provides an exemption to the waiting period for full-time paid peace officers who obtain verifiable written certification from the head of their agency. The certification letter shall be on Department letterhead and may only be signed by the Director or the Acting Director in the Director's absence.

If a sworn employee has a need to avoid the 10-day waiting period--for example, the employee wishes to purchase a firearm while traveling, or the employee's leave unexpectedly exceeds 30 days and his/her duty weapon is subject to collection pursuant to Policy Manual § 700.6.6--a letter may be requested in the following manner:

- a. The employee will send, via e-mail, a request to the SAC justifying the waiver and providing his/her full name and date of birth.
- b. If the SAC approves the request, he/she shall ensure that a domestic violence background check is conducted. Provided no adverse information is discovered, the SAC will forward the employee's request, the results of the domestic violence background check, and his/her recommendation to the Bureau Chief.
- c. If the Bureau Chief approves the request, he/she shall forward the package and his/her recommendation to the Director or Acting Director.
- d. If the Director or Acting Director approves the request, a signed letter shall be returned to the requesting employee. For expediency, the employee may request that the letter is scanned and sent electronically.

Requests for certification letters should be processed expeditiously; however, they are issued entirely at the discretion of the Director and may be denied if the Director, or any other member of the employee's chain of command, is aware of adverse information that would preclude the Department from endorsing a waiver for the employee. If a request is to be denied, the employee should be notified as soon as practicable.

All certification letters issued pursuant to this section shall be valid for 30 calendar days from the date signed.

### **312.10.2 DEPARTMENT-ISSUED WEAPON PURCHASES**

An agent may purchase his/her Department-issued weapon within 30 calendar days of the date of his/her retirement, pursuant to and subject to the conditions imposed by Public Contract Code § 10334(b) and DOJAM § 11271. The agent must successfully obtain a CCW pursuant to Policy Manual § 220 before he/she may be granted authorization to purchase his/her Department-issued weapon.

Any agent who purchases his/her Department-issued weapon shall complete the Firearms Ownership Registration form (FD 4542A, available on the Department's Web site at <http://ag.ca.gov/firearms/forms/pdf/volreg.pdf>) and submit it, with the applicable fee, to the Office of the Director, which will coordinate with BOF to complete the registration.

### **312.10.3 AMMUNITION PURCHASES**

To ensure consistency, the following procedure shall be followed:

a. Purchase Request – JUS 8890

1. The regional office shall prepare a Purchase Request Form (JUS 8890) based on the current DLE Approved Ammunition List and the DGS Ammunition Contract.
2. The regional office shall obtain approval from the Firearms Officer to purchase the specified ammunition.
3. If the Firearms Officer questions the need for the specified ammunition, the Firearms Officer will clarify the need for the ammunition with the Rangemaster.
4. After discussion with the Rangemaster, the Firearms Officer shall approve/disapprove the questioned ammunition item.
5. If approved, the regional office will note the approval and date on the JUS 8890 and proceed with the purchase.

b. CAL CARD

1. The regional office shall select the ammunition to be purchased based on the current DLE Approved Ammunition List and the current DGS Ammunition Contract.
2. The regional office will contact the Firearms Officer via e-mail or fax to request approval of the ammunition purchase. The Firearms Officer will respond to the request via e-mail or fax.
3. If the Firearms Officer questions the need for the specified ammunition, the Firearms Officer shall clarify the need for the ammunition with the Rangemaster. After discussion with the Rangemaster, the Firearms Officer shall approve/disapprove the questioned ammunition item.
4. If approved, the regional office may proceed with the purchase. The purchaser shall attach a copy of the Firearms Officer's written e-mail or fax approval to the purchase invoice and submit both documents with the monthly CAL-Card statement.

**312.10.4 Not subject to disclosure due to agent safety concerns**

[Redacted text]

- [Redacted list item]

- [Redacted list item]

- [Redacted list item]

- [Redacted list item]

[Redacted text]

## **313 Vehicle Stops**

### **313.1 PURPOSE AND SCOPE**

The primary purpose of this policy is to provide guidelines to minimize risk of to serious injury or death in the event a vehicle stop is determined to be necessary. Agents should consider available alternatives to avoid the necessity of stopping a vehicle for the purpose of arresting a suspect(s) in a vehicle.

### **313.2 FELONY VEHICLE STOPS**

All felony vehicle stops are high-risk enforcement operations. If a felony vehicle stop is determined to be necessary, the involved agent(s) should:

- a. Identify himself/herself to the vehicle's occupant(s) as a peace officer. The agent(s) should use a red light and siren when initiating the stop of a suspect's vehicle. Whenever practical and possible, the agent(s) should make an effort to have a marked patrol vehicle initiate the stop.
- b. Wear ballistic vests as well as appropriate raid uniforms. In addition, agents participating in the stop should carry their duty weapons, handcuffs, and extra ammunition.

### **313.3 NON-FELONY TRAFFIC STOPS**

On those occasions when concerns for public safety require that a non-felony traffic stop be made or when the non-felony traffic stop is related to an active/open DLE investigation, agents should, whenever possible, request that a marked police unit make the vehicle stop. If the non-felony traffic stop is made by an agent, he/she should:

- a. Consider the time of day, traffic flow, weather conditions, location of the stop, and the safety of the agent(s), the driver and any passengers in the vehicle to be stopped, and the public.
- b. Identify himself/herself to the vehicle's occupant(s) as a peace officer. The agent(s) shall use a red light and siren in initiating the stop. In addition, all agents participating in the stop shall wear their duty weapons, handcuffs, and extra ammunition.
- c. Immediately following the stop, report to his/her SAS any non-felony traffic stops which are not associated with an active/open DLE investigation. The agent shall document the details of the stop to his/her SAC in a memorandum/report within 24 hours of the stop.
  1. The memorandum/report will document the necessity for the stop, why the stop could not have been made by a marked police unit, the identity of the driver and any passengers in the stopped vehicle, names of any other witnesses, and a description

of any significant event that occurred during the stop. In addition, the memorandum/report shall state whether the stop resulted in any formal actions such as arrests or citations.

## **314 Vehicle Pursuits**

### **314.1 PURPOSE AND SCOPE**

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to serious injury or death. The primary purpose of this policy is to provide agents guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce the potential for pursuit-related collisions. Vehicular pursuits require agents to exhibit a high degree of common sense and sound judgment. Agents must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing agents.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no agent or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Agents must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Agents' conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable agent would do under the circumstances. An unreasonable individual's desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

#### **314.1.1 VEHICLE PURSUIT DEFINED**

A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspect who is attempting to avoid arrest while operating a motor vehicle by using high speed driving or other evasive tactics such as driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to an agent's signal to stop.

### **314.2 AGENT RESPONSIBILITIES**

It shall be the policy of this department that a motor vehicle pursuit shall be conducted only with red light and siren as required by Vehicle Code § 21055 for exemption from compliance with the rules of the road. The following policy is established to provide agents with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

### **314.2.1 WHEN TO INITIATE A PURSUIT**

Agents are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle and the escape and continued freedom of the suspect would pose a threat of great bodily harm or death to law enforcement personnel and/or the public. The following factors individually and collectively shall be considered in deciding whether to initiate a pursuit:

- a. Seriousness of the known or reasonably suspected crime and its relationship to community safety.
- b. The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to agents, innocent motorists and others.
- c. Apparent nature of the fleeing suspect(s) (e.g., whether the suspect(s) represent a serious threat to public safety).
- d. The identity of the suspect(s) has been verified and there is comparatively minimal risk in allowing the suspect(s) to be apprehended at a later time.
- e. Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors.
- f. Pursuing agent(s) familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing agents under the conditions of the pursuit.
- g. Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect.
- h. Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- i. Vehicle speeds.
- j. Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- k. Availability of other resources such as helicopter assistance.
- l. The bureau unit is carrying passengers other than bureau agents. Pursuits should not be undertaken with a prisoner(s) in the police vehicle.

### **314.2.2 WHEN TO TERMINATE A PURSUIT**

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the agent or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect(s)' escape. This division's participation in pursuits shall be terminated when the CHP or another law enforcement agency's marked vehicle(s) assumes control.

The factors listed in Policy Manual § 314.2.1 are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit.

Agents and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle(s).

In addition to the factors listed in Policy Manual § 314.2.1, the following factors should also be considered in deciding whether to terminate a pursuit:

- a. Distance between the pursuing agents and the fleeing vehicle(s) is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.
- b. Pursued vehicle's location is no longer definitely known.
- c. Agent's pursuit vehicle sustains any type of damage that renders it unsafe to drive.
- d. Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are discouraged.
- e. Hazards to uninvolved bystanders or motorists.
- f. If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, agents should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
- g. Directed by a supervisor.

### **314.2.3 SPEED LIMITS**

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the agent and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle.



Should high vehicle speeds be reached during a pursuit, agents and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit:

- a. Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- b. Pursuit speeds have exceeded the driving ability of the agent.
- c. Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

### **314.3 PURSUIT UNITS**

Pursuit units should be limited to three vehicles (two units and a supervisor; however, the number of units involved will vary with the circumstances. An agent or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of agents involved would be insufficient to safely arrest the suspect(s). All other agents should stay out of the pursuit, but should remain alert to its progress and location. Any agent who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

#### **314.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT**

Vehicles not equipped with red light and siren are generally prohibited from initiating or joining in any pursuit. Agent(s) in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations. Those agents should terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency police vehicles or any police helicopter. The exemptions provided by Vehicle Code § 21055 do not apply to agents using vehicles without emergency equipment.

#### **314.3.3 PRIMARY UNIT RESPONSIBILITIES**

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the agent initiating the pursuit is the apprehension of the suspect(s) without unreasonable danger to themselves or other persons.

Notify the base station operator or field supervisor and other involved units that a vehicle pursuit has been initiated, initiate a Code 3 when radio traffic can be expected to interfere with the pursuit, and as soon as practical provide information including, but not limited to:

- a. Reason for the pursuit.

- b. Location and direction of travel.
- c. Speed of the fleeing vehicle.
- d. Description of the fleeing vehicle and license number, if known.
- e. Number of known occupants.
- f. The identity or description of the known occupants.
- g. Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

Unless relieved by a supervisor or secondary unit, the agent in the primary unit shall be responsible for the broadcasting of the progress of the pursuit. Unless practical circumstances indicate otherwise, and in order to concentrate on pursuit driving, the primary agent should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

#### **314.3.4 SECONDARY UNIT(S) RESPONSIBILITIES**

The second agent in the pursuit is responsible for the following:

- a. The agent in the secondary unit should immediately notify the base station or field supervisor of entry into the pursuit.
- b. Request the assistance of a marked police vehicle if one has not been requested already by the base station operator or field supervisor.
- c. Remain a safe distance behind the primary unit unless directed to assume the role of primary agent, or if the primary unit is unable to continue the pursuit.
- d. The secondary agent should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

#### **314.3.5 PURSUIT DRIVING TACTICS**

The decision to use or not use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

- a. Agents, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.

- b. Because intersections can present increased risks, the following tactics should be considered:
  - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
  - 2. Pursuing units should exercise due caution when proceeding through controlled intersections.
- c. As a general rule, agents should not pursue a vehicle driving left of center (wrong way) on a freeway. In the event the pursued vehicle does so, the following tactics should be considered:
  - 1. Requesting assistance from an air unit.
  - 2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
  - 3. Requesting other units to observe exits available to the suspect(s).
  - 4. Notifying the California Highway Patrol and/or other jurisdictional agency.
- d. Agents involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or requested to do so by the primary unit.

### **314.3.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT**

There should be no paralleling of the pursuit route. Agents should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

Non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road.

The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

### **314.3.7 PURSUIT TRAILING**

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of supervisor, trail the pursuit

to the termination point in order to provide necessary information and assistance for the arrest of the suspect(s).

The term “trail” means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

### **314.3.8 AIRCRAFT ASSISTANCE**

When available, aircraft assistance should be requested at the supervisor’s discretion. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider the participation of aircraft assistance when determining whether to continue the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide agents and supervisors with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether or not to continue the pursuit. If ground units are not within visual contact and the air unit determines that it is unsafe to continue the pursuit, the air unit has the authority to terminate the pursuit.

### **314.4 SUPERVISORY CONTROL AND RESPONSIBILITY**

It is the policy of this department that available supervisory and management control will be exercised over all motor vehicle pursuits involving agents from this department.

The field supervisor of the agent initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for the following:

- a. Notifying the CHP and all affected local law enforcement agencies and requesting that the CHP assume control of the pursuit.
- b. Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines, and ordering the immediate termination of a pursuit that does not meet the initiation criteria of Policy Manual § 314.2.1.
- c. Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- d. Exercising management and control of the pursuit even if not engaged in it.
- e. Ensuring that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.

- f. Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.
- g. Evaluating the need for aircraft and ensuring that aircraft are requested if available.
- h. Ensuring that the proper radio channel is being used.
- i. Ensuring the notification and/or coordination of outside agencies if the pursuit must continue.
- j. Control and manage DLE units when a pursuit enters another jurisdiction.
- k. Preparing post-pursuit critique and analysis of the pursuit for training purposes.
- l. Directing personnel when taking custody of the suspect(s).

#### **314.4.1 SAC RESPONSIBILITY**

Upon becoming aware that a pursuit has been initiated, the SAC should immediately notify the appropriate Bureau Chief, who should notify the Deputy or Assistant Director.

In all pursuits, the SAC should coordinate with the field supervisor as appropriate, monitor and continually assess the situation, and ensure the pursuit is conducted within the guidelines and requirements of this policy. The SAC has the final responsibility for the coordination, control and termination of a motor vehicle pursuit and shall be in overall command.

The SAC shall review all pertinent reports for content and ensure that a summary memorandum and all available reports are forwarded to the Bureau Chief within five (5) working days of the incident.

#### **314.5 COMMUNICATIONS**

If the pursuit is confined within the State limits, radio communications will be conducted on the primary repeater channel for the operational area unless instructed otherwise by a supervisor or base station operator. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units should, whenever available, switch radio communications to an emergency channel most accessible by participating agencies and units.

#### **314.5.1 BASE STATION RESPONSIBILITIES**

Upon notification that a pursuit has been initiated, the base station will:

- a. Coordinate pursuit communications of the involved units and personnel.
- b. Notify and coordinate with other involved or affected agencies as practical.
- c. Ensure that a field supervisor is notified of the pursuit.
- d. Assign an incident number and log all pursuit activities.
- e. Broadcast pursuit updates as well as other pertinent information as necessary.
- f. Notify the SAC as soon as practical.

### **314.5.2 LOSS OF PURSUED VEHICLE**

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating suspects. The primary unit will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

### **314.6 INTER-JURISDICTIONAL CONSIDERATIONS**

When a pursuit enters another agency's jurisdiction, the primary agent or supervisor, taking into consideration distance traveled, unfamiliarity with the area, and other pertinent facts, should determine whether or not to request the other agency to assume the pursuit.

Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary agent or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether or not such jurisdiction is expected to assist.

#### **314.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY**

Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and assistance of the California Department of Justice is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The role and responsibilities of agents at the termination of a pursuit initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of

communication limitations between local agencies and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit.

### **314.7 PURSUIT INTERVENTION**

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, road spikes, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures. In this context, ramming shall be construed to mean maneuvering the bureau unit into contact with the pursued vehicle to mechanically disable or forcibly position it such that further flight is not possible or practical.

DLE personnel shall not utilize pursuit intervention tactics.

#### **314.7.2 DEFINITIONS**

**Blocking or Vehicle Intercept** - A slow speed coordinated maneuver where two or more patrol vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary road block.

**Boxing in** - A tactic designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

**Pursuit Intervention Technique (PIT)** - A low speed maneuver designed to cause the suspect vehicle to spin out and terminate the pursuit.

**Ramming** - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

**Roadblocks** - A tactic designed to stop a violator's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the violator's vehicle.

**Spikes or Tack Strips** - A device that extends across the roadway designed to puncture the tires of the pursued vehicle.

#### **314.7.3 USE OF FIREARMS**

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Agents should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any agent from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

### **314.7.5 CAPTURE OF SUSPECTS**

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Agents shall use only that amount of force, which reasonably appears necessary under the circumstances, to properly perform their lawful duties.

Unless relieved by a supervisor the primary agent should coordinate efforts to apprehend the suspect(s) following the pursuit. Officers should consider safety of the public and the involved agent when formulating plans to contain and capture the suspect.

Agents should always be conscious of the physical hazards and/or hostile environment of their surroundings.

### **314.8 REPORTING REQUIREMENTS**

The following reports should be completed to comply with appropriate local and state regulations:

- a. The primary agent shall complete appropriate crime/arrest reports.
- b. Pursuant to Vehicle Code § 14602.1(b), the primary agent shall complete form CHP 187A, Allied Agency Vehicle Pursuit Report, to be reviewed by the SAC and filed with the CHP either electronically or on paper not later than 30 days after the pursuit.
- c. After first obtaining available information, a field supervisor shall promptly complete a memorandum briefly summarizing the pursuit to his/her SAC. This memo should minimally contain the following information:
  1. Date and time of pursuit.
  2. Length of pursuit.
  3. Involved units and agents.
  4. Initial reason for pursuit.
  5. Starting and termination points.
  6. Disposition: arrest, citation, etc. Arrestee information should be provided if applicable.
  7. Injuries and/or property damage.



8. Medical treatment.
9. Name of supervisor at scene.
10. A preliminary determination that the pursuit appears to be in compliance with this policy OR additional review and/or follow-up is warranted.

### **314.8.1 REGULAR AND PERIODIC PURSUIT TRAINING**

In addition to initial and supplementary POST training on pursuits required by Penal Code § 13519.8, all sworn members of this department will participate no less than annually in regular and periodic department training addressing this policy and the importance of vehicle safety and protecting the public at all times, including a recognition of the need to balance the known offense and the need for immediate capture against the risks to agents and others (Vehicle Code § 17004.7(d)).

### **314.8.2 POLICY REVIEW**

As part of this department's tactical training program, by June 30 of each year, each sworn member of this department shall certify in writing that they have received, read and understand this policy initially and upon any amendments and the POST Pursuit Driving Telecourse. The signed attestations shall be forwarded to, and maintained by, the ATC.

### **314.9 APPLICATION OF MOTOR VEHICLE PURSUIT POLICY**

This policy is expressly written and adopted pursuant to the provisions of Vehicle Code § 17004.7, with additional input from the POST Vehicle Pursuit Guidelines.

## **315 Daily Reports**

### **315.1 PURPOSE AND SCOPE**

Each regional manager will notify the Press Officer and Headquarters by 3:00 p.m. each work day of any significant events which have occurred during the past 24 hours. Task Force Commanders will report significant events to the appropriate SAC.

### **315.2 EVENTS SUBJECT TO REPORTING**

Events considered significant include, but are not limited to, the following:

- a. Any encounter, such as an arrest or investigation, involving a public figure, excluding confidential investigations.
- b. Any shooting or other event of armed confrontation involving a DLE employee, whether or not in the course of duty.
- c. Any investigation or request for investigation that will likely generate unusual public interest or media attention in the near future, or has significant potential to result in litigation.
- d. All contacts from the news media.
  1. Inquiries that are routine in nature may simply be listed by name of reporter, name of news agency, and subject of the call.
  2. Inquiries related to non-routine matters which require an employee to explain a program or elaborate on activities by the Division or its employees should be reported with a brief summary of the nature of the contact and the information provided.
  3. Any media inquiry related to an event which is urgent, exceptionally newsworthy, or by its nature dictates timely notification of the Director and the Attorney General should also be made by telephoning the Public Information Officer and/or Bureau Chief immediately, to be followed with a more complete daily report. In the event the Information Officer or the Bureau Chief cannot be reached by telephone, the Command Center should be contacted and asked to call them.
  4. Any requests from the news media for personal interviews on matters of Department policy should be referred to the Public Information Officer with a recommendation for the most appropriate person to respond.
- e. Any significant accidents or injuries to Division personnel, whether on- or off-duty.

- f. Any criminal investigation or arrest involving Division personnel, whether on- or off-duty.

### **315.3 PROLAW (BMFEA)**

Court activity must be entered into ProLaw within two days to ensure that the event will appear in the Daily Report. The “BMF Primary” is responsible for the first court-related entry into ProLaw, which is the filing of a search warrant or the filing of a felony or misdemeanor complaint. A court-endorsed copy of the search warrant or criminal complaint and Declaration in Support of the Arrest is scanned and imported into ProLaw as a child of the docket event.

As the case progresses, agents and auditors shall continue to gather court documents when possible. Once collected, the documents shall be sent to the DAG’s designated secretary to be scanned and imported into ProLaw.

When a case is being prosecuted by an outside agency, the agents and auditors shall maintain contact with the agency’s prosecutor and notify the case DAG’s designated secretary of the status of the case.

## **319 Transporting Prisoners**

### **319.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance for the transport of prisoners in vehicles or aboard commercial aircraft by agents of this division.

### **319.2 TRANSPORTING PRISONERS IN VEHICLES**

Agents shall avoid transporting prisoners alone. All prisoners being transported shall have their hands cuffed properly behind their backs and shall be securely seat-belted.

When prisoners are transported in assigned, unmarked undercover vehicles, the following guidelines shall be observed:

- **One agent, one prisoner** - The prisoner shall be placed in the right front passenger seat.
- **One agent, two or more prisoners** - Prohibited. The agent shall contact his/her supervisor for additional agent support.
- **Two agents, one prisoner** - The prisoner shall be transported in the rear seat, right side. The second agent shall ride in the rear seat directly behind the driver.
- **Two agents, two prisoners** - The prisoners shall be in the middle and right side seats. The second agent should ride in the rear seat directly behind the driver. If there is insufficient room in the rear seat, one prisoner shall be placed in the right front seat and the other prisoner shall be placed in the right side rear seat. The second agent shall remain in the left rear seat.

The transport of female prisoners shall be performed in the manner and with the same precautions used with male prisoners except that there shall be at least two agents for the transport of female prisoners and, when feasible, one agent should be a female.

Whenever possible, prisoners should be secured in the prisoner restraint system in the rear seat of a local law enforcement agency's patrol vehicle or, when a prisoner restraint system is not available, by seat belts. The prisoner should be in a seating position for which seat belts have been provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

### **319.3 ESCORTING PRISONERS ABOARD AIRCRAFT**

Agents are expected to adhere to the following procedures when transporting prisoners aboard commercial aircraft:

- a. Prior to transporting a prisoner aboard a commercial aircraft, the SAC will determine the prisoner's risk level based on the following criteria:
  1. A "high risk" prisoner is a prisoner who is an exceptional escape risk, and/or is charged with, or convicted of, a violent crime.
  2. A "low risk" prisoner is a prisoner who has not been designated as "high risk."
  3. Unless otherwise authorized by the Transportation Security Administration, United States Department of Homeland Security, no more than one high risk prisoner shall be carried on an aircraft.
- b. Agents who escort a prisoner aboard an aircraft shall:
  1. Provide the air carrier with the following information at least 24 hours before the scheduled departure or if that is not possible as far in advance as possible:
    - a. The identity of the prisoner.
    - b. The flight on which it is proposed to carry the prisoner.
    - c. The prisoner's risk level: high or low, as defined by this section.
  2. Thoroughly search the prisoner to ensure that he/she does not have on or about his/her person or property anything that can be used as a weapon.
  3. Arrive at the check-in counter at least one hour before the scheduled departure time.
  4. Assure the air carrier, before departure, that the prisoner has been thoroughly searched.
  5. Be seated between the prisoner and any aisle. In addition, the prisoner shall not be seated in any passenger lounge area or next to or directly across from any exit. The air carrier should be asked to seat the prisoner in the rearmost seat of the passenger cabin.
  6. Accompany the prisoner at all times, and keep the prisoner under control while aboard the aircraft. In addition, the prisoner shall be restrained from the full use of his/her hands by an appropriate device that provides for minimum movement of the prisoner's hands. Leg irons shall not be used.
  7. Inspect any food or beverage to be served to the prisoner in order to prevent the prisoner from consuming any alcoholic beverage and/or obtaining any metal eating utensil that could be used as a weapon.

- c. Whenever practicable, the agent(s) and the prisoner will board before any other boarding passengers and deplane after all other deplaning passengers.

## 320 Domestic Violence

### 320.1 PURPOSE AND SCOPE

Domestic violence is alleged criminal conduct and it is the policy of the California Department of Justice to stress enforcement of criminal laws related to domestic violence, the protection of the victim, and the availability of civil remedies and community resources. This includes the arrest of domestic violence offenders and those who violate protective orders if there is probable cause to believe an offense has occurred.

In responding to domestic violence incidents, agents should generally be reluctant to make dual arrests. Agents shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the dominant aggressor, an agent shall consider:

- a. The intent of the law to protect victims of domestic violence from continuing abuse
- b. The threats creating fear of physical injury
- c. The history of domestic violence between the persons involved
- d. Whether either person acted in self-defense

If an employee receives information of a possible domestic violence incident, he/she shall immediately notify the appropriate local law enforcement agency.

#### 320.1.1 DEFINITIONS

The following definitions are provided by Penal Code § 13700:

**Abuse** - means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury.

**Domestic Violence** - is abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

**Cohabitant** - means two unrelated adult persons living together for a substantial period of time, resulting in some permanence of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

- Sexual relations between the parties while sharing the same living quarters

- Sharing of income or expenses
- Joint use or ownership of property
- Whether the parties hold themselves out as husband and wife
- The continuity of the relationship
- The length of the relationship

The above definition of cohabitant is used for the application of enforcing Penal Code § 273.5. Family Code § 6209 expands the definition of cohabitant to include a person who regularly resides in the household for the application of enforcing Penal Code § 836(d).

**Victim** - means a person who is a victim of domestic violence.



## **322 Search & Seizure**

### **322.1 PURPOSE AND SCOPE**

Case law regarding search and seizure is ever changing and frequently subject to interpretation under the varying facts of each situation; therefore, employees are advised to refer to the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for search and seizure issues. This policy is intended to provide administrative guidelines only.

### **322.6 AFFIDAVITS**

When preparing reports and affidavits on which warrants will be based, the reporting agent or affiant and his/her supervisor shall take all steps necessary to ensure accurate and complete information.

When an affidavit is prepared and the warrant is signed by a magistrate, a copy of the affidavit, the search warrant, and the search warrant return shall be retained in the case file, regardless of whether or not the warrant was actually served.

### **322.7 SEARCH WARRANT REVIEW**

Absent extenuating circumstances, affidavits and related documents prepared in support of a search warrant, pen register or wiretap shall be subjected to legal review prior to submission to a magistrate. The required legal review may be accomplished by county, state, or federal prosecutors as appropriate.

No agent shall serve any warrant he/she believes is lacking in probable cause even if the warrant is signed by a magistrate. The SAS, acting SAS, or agent in charge of the search warrant operation shall read the face of the search warrant, including the description of the location and items to be searched for, to all participating personnel during the pre-operation briefing. Agents and SASs shall also review all search warrants and supporting affidavits not prepared by DLE personnel prior to agreeing to participate in any other agency's search warrant service. If the agent or the SAS believes that the affidavit lacks sufficient probable cause or does not clearly describe the location to be searched, whether signed by a magistrate or not, DLE shall not participate in the service of the warrant.

The reporting agent shall document in the investigation report the fact that the affidavit was reviewed, the name(s) of person(s) reviewing, and that the description of the location to be searched and items or information to be searched for was read to all personnel participating in the search warrant.

### 322.7.1 LEGAL REVIEW EXEMPTIONS

It is recognized, due to the broad range of circumstances existing in criminal investigations, that prior legal review of search warrants may not always be feasible. Listed below are five circumstances which constitute exceptions to the requirement for prior legal review of search warrants.

- a. **Secured Premises** - When a vehicle, residence, or other structure is secured without a warrant for tactical reasons during any investigation, and agents have persons in custody or detention, and the determination is made that a warrant must be obtained for a further search of the vehicle, residence or other structure.
- b. **Officer Safety** - When tactical issues such as officer safety, destruction of evidence or flight of a criminal suspect require the immediate transmittal of a search warrant affidavit and search warrant to a magistrate.
- c. **Reviewer Availability** - When a District Attorney, Deputy Attorney General or U.S. Attorney is not readily available to review a warrant which requires service on the same day it is prepared.
- d. **Assist to Allied Agencies** - When agents respond to a request for assistance from allied law enforcement agencies to assist in the service of a search warrant or monitoring of a pen register or wiretap that has been prepared, reviewed, and taken to the magistrate by the allied agency. In some cases; however, when a SAC, while acting in concert with allied agencies, believes that a case is sensitive in nature, he/she may elect to either require a legal review at his/her level by a District Attorney, Deputy Attorney General, or U.S. Attorney, or opt not to participate in the investigation.
- e. **Telephonic Warrants** - When a supervisor determines that, because of the immediate need for a search warrant, a telephonic warrant is appropriate and a conference calling capability is not available for simultaneous review by a District Attorney, Deputy Attorney General, or U.S. Attorney along with a magistrate and peace officer. However, the District Attorney, Deputy Attorney General, or U.S. Attorney shall be notified and briefed on the circumstances prior to contacting a magistrate.

Legal review is required in all cases prior to the issuance of pen registers or wiretaps.

### 322.8 PRE-WARRANT SERVICE REVIEW

Prior to initiating the service of a search and/or an arrest warrant, agents should make every effort to obtain accurate identifications and descriptions of suspects and premises by conducting surveillance of the location(s) in question prior to the pre-operation briefing. The pre-warrant service preparation shall include, but not be limited to, all available photographs, sketches, and/or video tape recordings of the suspects and location(s).

### **322.9 CONSENT TO SEARCH**

When requesting consent to conduct a search during a detention or consensual encounter, or prior to service of a search warrant, agents are authorized and encouraged to attempt to obtain written consent using a Consent to Search form (DLE 243). The DLE 243 form is available on the Intranet in both English and Spanish. The attempt to gain consent and, if granted, the method(s) by which consent was obtained shall be documented in the report.

## **324 Temporary Custody of Juveniles**

### **324.1 PURPOSE AND SCOPE**

If an agent has reasonable cause to believe a juvenile should be taken into temporary custody, the agent shall notify the appropriate local law enforcement agency. This policy provides guidelines and requirements for the detention and disposition of juveniles taken into temporary custody by members of the California Department of Justice until such time as the juveniles are released into the custody of a local law enforcement officer.

### **324.2 AUTHORITY TO DETAIN**

Legal authority for taking custody of juvenile offenders is found in Welfare and Institutions Code § 625. A misdemeanor need not have been committed in the officer's presence (Welfare & Institutions Code § 625(a)). Legal authority for taking a possible court dependent (Welfare & Institutions Code § 300) into custody without a warrant is found in Welfare and Institutions Code § 305 as restricted in Welfare and Institutions Code section 305.6.

#### **324.2.1 CONSTITUTIONAL RIGHTS ADVISEMENT**

In any case where a juvenile offender is taken into temporary custody, Welfare and Institutions Code § 625 requires the agent advise the offender/probation violator/escapee of his/her constitutional (*Miranda*) rights.

#### **324.2.2 CHILDREN UNDER THE AGE OF 14**

Whenever a child under the age of 14 is taken into custody for a status or criminal offense, the arresting agent should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26). The child should be advised of his/her constitutional rights prior to that inquiry.

### **324.3 TEMPORARY CUSTODY**

When, during an investigation, an agent has reasonable cause to believe a juvenile should be taken into temporary custody for a criminal offense, the agent shall notify and provide assistance to a local law enforcement agency.

No juvenile may be held in temporary custody at the California Department of Justice without authorization of the arresting agent's supervisor or the SAC. An individual taken into custody for Welfare and Institutions Code § 300 or § 601 shall be processed as soon as practical. Juveniles detained under Welfare and Institutions Code § 602 may not be held at this facility for more than six hours from the time of arrival at the California Department of Justice. Section 300 (dependency) detainees must be segregated from sections 601 (status offenders) and 602

(delinquency) detainees (Welfare & Institutions Code § 206). A section 300 detainee may not be placed in a “secure facility.”

When a juvenile is taken into custody, the following steps shall be taken by the arresting agent or the detective assigned to the case:

- a. Take immediate steps to notify the juvenile’s parent, guardian, or a responsible relative that such juvenile is in custody and provide the location where the juvenile is being held and the intended disposition (Welfare and Institutions Code § 627).
- b. Submit a completed report to the SAC for approval.

Abused or neglected children and status offenders (juveniles falling within provisions of Welfare and Institutions Code §§ 300 and 601) may not be detained in jails or lockups. Section 300 detainees may be taken to a child welfare agency but may not be held in a secured environment or come into contact with adults in custody in the station. Section 601 detainees also may not be held in a “secure facility” or come into contact with adults in custody in the station. In applicable counties, if the agent takes a curfew violator into temporary custody, the agent shall transport the violator to his/her residence or release the violator to a parent (Welfare & Institutions Code §§ 625.5(b) and (c)). In the case of other status offenders where the agent has taken the minor into temporary custody, the agent must either release the minor, deliver or refer the minor to the proper agency for shelter care, release the minor after completing a notice to appear, or deliver the minor to the probation officer (Welfare & Institutions Code §§ 601, 625, 626, 626.5).

A minor who is 14 years or older and taken into custody for the personal use of a firearm in the commission or attempted commission of an offense listed in Welfare and Institutions Code § 707(b) shall not be released until the minor is brought before a judicial officer.

### **324.3.1 TEMPORARY CUSTODY REQUIREMENTS**

All juveniles held in temporary custody shall have the following made available to them:

- a. Access to toilets and washing facilities.
- b. One snack upon request during term of temporary custody if the juvenile has not eaten within the past four hours or is otherwise in need of nourishment. The snack shall be provided by the arresting agent, jailer or as directed by a supervisor.
- c. Access to drinking water.
- d. Privacy during visits with family, guardian, or lawyer.
- e. Immediately after being taken to a place of temporary confinement, and except where physically impossible no later than one hour after being taken into custody, the detaining

agent shall advise and provide the juvenile an opportunity to make at least two completed telephone calls: (1) to a parent, guardian, responsible relative or employer; and (2) to an attorney (Welfare and Institutions Code § 627).

### **324.3.2 NON-CONTACT REQUIREMENTS**

Employees shall not allow physical or sustained sight or sound contact between detained juveniles and incarcerated adults. Sight contact is clear visual contact between adult inmates and juveniles within close proximity to each other; sound contact is direct oral communication between adult inmates and juvenile offenders. This applies to both non-secure and secure detentions (Welfare & Institutions Code § 208 and 15 CCR § 1006).

In situations where brief or accidental contact may occur, such as booking or movement between facilities, employees trained in the supervision of inmates must be present. These trained employees must maintain a constant, side-by-side presence with the minor or the adult to prevent sustained contact (15 CCR § 1144).

### **324.4 TYPES OF CUSTODY**

The following provisions apply to types of custody, and detentions of section 602 (delinquency) offenders brought to a local jail.

#### **324.4.1 NON-SECURE CUSTODY**

All juveniles not meeting the criteria to be placed in a locked detention room, or any juvenile under the age of 14 years taken into custody for a criminal violation, regardless of the seriousness of the offense, may be temporarily detained in the bureau facility; however, the custody must be non-secure and separate from adult detainees.

Non-secure custody means juveniles shall be placed in an unlocked room or open area. Juveniles may be handcuffed, but not to a stationary or secure object. Juveniles shall receive constant personal visual supervision by law enforcement personnel. Monitoring a juvenile using audio, video or other electronic devices does not replace constant personal visual supervision.

#### **324.4.2 SECURE CUSTODY**

A juvenile may be held in secure detention in the jail, but segregated from adult detainees, if the juvenile is 14 years of age or older and, if in the reasonable belief of the peace officer, the juvenile presents a serious security risk of harm to self or others, as long as all other conditions of secure detention set forth below are met. Any juvenile in temporary custody who is less than 14 years of age, or who does not, in the reasonable belief of the peace officer, present a serious security risk of harm to self or others, shall not be placed in secure detention, but may be kept in

non-secure custody in the facility as long as all other conditions of non-secure custody are met (Welfare and Institutions Code § 602, Title 15 California Code of Regulations § 1545).

- a. In making the determination whether the juvenile presents a serious security risk of harm to self or others, the agent may take into account the following factors:
  1. Age, maturity, and delinquent history of the juvenile.
  2. Severity of the offense(s) for which the juvenile was taken into custody.
  3. Juvenile's behavior, including the degree to which the minor appears to be cooperative or non-cooperative.
  4. The availability of staff to provide adequate supervision or protection of the juvenile.
  5. The age, type, and number of other individuals who are detained in the facility.
- b. A juvenile may be locked in a room or secured in a detention room subject to the following conditions:
  1. Juvenile is 14 years of age or older.
  2. Juvenile is taken into custody on the basis of having committed a criminal law violation as defined in Welfare and Institutions Code § 602.
  3. Detention at this facility does not exceed six hours from the time of arrival at the bureau station, when both secure and non-secure time is combined.
  4. Detention is for the purpose of giving the agent time to investigate the case, facilitate the release of the juvenile to parents, or arrange transfer to Juvenile Hall.
  5. The agent apprehending the juvenile has reasonable belief that the juvenile presents a "serious security risk of harm to self or others." Factors to consider include:
    - a. Age, maturity, and delinquent history of juvenile.
    - b. Severity of offense for which taken into custody.
    - c. Juvenile's behavior.
    - d. Availability of staff to provide adequate supervision or protection of the juvenile.
    - e. Age, type, and number of other individuals detained at the facility.

### **324.4.3 SECURE DETENTION OF JUVENILES**

While in secure detention, minors may be locked in a room or other secure enclosure, secured to a cuffing rail, or otherwise reasonably restrained as necessary to prevent escape and protect the juvenile or and others from harm.

- a. Minors held in secure detention outside of a locked enclosure shall not be secured to a stationary object for more than 30 minutes unless no other locked enclosure is available. If a juvenile is secured, the following conditions must be met:
  1. A Department employee must be present at all times to ensure the juvenile's safety while secured to a stationary object.
  2. Juveniles who are secured to a stationary object are moved to a detention room as soon as one becomes available.
  3. Juveniles secured to a stationary object for longer than 30 minutes, and every 30 minutes thereafter, shall be approved by the designated supervisor and the reason for continued secure detention shall be documented.
- b. In the event a juvenile is held inside a locked enclosure, the juvenile shall receive adequate supervision which, at a minimum, includes:
  1. Constant auditory access to staff by the juvenile;
  2. Unscheduled personal visual supervision of the juvenile by department staff, no less than every 30 minutes. These visual checks shall be documented.
- c. Males and females shall not be placed in the same locked room unless under direct visual supervision.

### **324.4.5 JUVENILE'S PERSONAL PROPERTY**

The agent placing a juvenile into a detention room must make a thorough search of the juvenile's property. This will ensure all items likely to cause injury to the juvenile or the facility are confiscated and placed in a property bag. The property shall be inventoried in the juvenile's presence and sealed into the bag. The property will be maintained by the responsible detective or the desk personnel or locked in a juvenile property locker until the juvenile is released from the custody of the California Department of Justice.

### **324.4.6 MONITORING OF JUVENILES**

The juvenile shall constantly be monitored by the audio/video system during the entire detention. An in-person visual inspection shall be done to ensure the welfare of the juvenile and



shall be conducted at least once each half-hour, on an unscheduled basis, until the juvenile is released. This inspection shall not be replaced by video monitoring. This inspection shall be conducted by a designee of the SAC. More frequent visual inspections should be made as circumstances dictate as in the case of an injured or ill juvenile being detained, or if specific circumstances exist such as a disciplinary problem or suicide risk. In such instances the SAC shall be fully informed about the special circumstances in order to evaluate continued detention of such a juvenile.

### **324.4.7 MANDATED JUVENILE PROVISIONS**

While a juvenile is being detained in the detention room, he/she shall be provided with the following provisions:

- a. Reasonable access to toilets and washing facilities.
- b. Food, if the juvenile has not eaten within the past four hours, or is otherwise in need of nourishment, including any special diet required for the health of the juvenile. All food given to a juvenile in custody shall be provided from the jail food supply
- c. Reasonable access to drinking water.
- d. Privacy during family, guardian, and/or lawyer visits.
- e. Blankets and clothing necessary to ensure the comfort of the juvenile (clothing shall be provided by the jail if the juvenile's clothing is taken as evidence or is otherwise unsuitable or inadequate for the continued wear while in custody).

### **324.4.8 FORMAL BOOKING**

No juvenile shall be formally booked (Welfare and Institutions Code § 602 only) without the authorization of the arresting agent's supervisor, or in his or her absence, the SAC.

Any juvenile, 14 years of age or older, who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed. For all other acts defined as crimes, juveniles may be booked, fingerprinted, or photographed upon the approval from the SAC or Supervisor, giving due consideration to the following:

- a. The gravity of the offense.
- b. The past record of the offender.
- c. The age of the offender.

### 324.4.9 DISPOSITIONS

- a. Any juvenile offender not transferred to a juvenile facility shall be released to one of the following:
  1. Parent or legal guardian.
  2. An adult member of his/her immediate family.
  3. An adult person specified by the parent/guardian.
  4. An adult person willing to accept responsibility, when the juvenile's parents are unavailable as approved by the SAC.
- b. If the six-hour time limit has expired, the juvenile should be transported to the juvenile hall to accept custody.
- c. After an agent has taken a juvenile into temporary custody for a violation of law, the following dispositions are authorized:
  1. The arresting agent may counsel or admonish the juvenile and recommend no further action be taken.
  2. If the arresting agent or the SAC believes that further action is needed, the juvenile will be released to a responsible person as listed above, and such juvenile will be advised that follow-up action will be taken by a detective. The detective assigned to the case will then determine the best course of action, such as diversion or referral to court. The detective will contact the parents and advise them of the course of action.
  3. The arresting agent may complete an Application for Petition form on behalf of the juvenile.
  4. The juvenile may be transferred to Juvenile Hall with authorization of the appropriate supervisor or the SAC when the violation falls within the provisions of Welfare and Institutions Code § 602.
- d. If a juvenile is to be transported to Juvenile Hall, the following forms shall accompany the juvenile:
  1. Application for Petition.
  2. Three copies of the applicable reports for each juvenile transported. In certain cases Juvenile Hall may accept custody of the juvenile based on the petition and the agreement that facsimile copies will be forwarded as soon as completed.

3. Any personal property taken from the juvenile at the time of detention.

## **324.6 RELEASE OF INFORMATION CONCERNING JUVENILES**

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Agents of this department shall not divulge any information regarding juveniles in situations where they are uncertain of the legal authority to do so.

### **324.6.1 RELEASE OF INFORMATION BY SUPERIOR COURT ORDER**

The inspection or release of juvenile records, including juvenile police records, is provided for in Welfare and Institutions Code sections 827, 827.1 (computerized data base), 827.5 (minor taken into custody for a “serious felony”), 827.6 (arrest warrant for “violent offense”), 827.9 (disclosure of juvenile police records), and 828 (descriptive information of an escapee), and California Rules of Court, rule 5.552. For the most current version, visit the California Courts Web site at <http://www.courtinfo.ca.gov/rules/>.

### **324.6.2 RELEASE OF INFORMATION TO OTHER AGENCIES**

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the SAS to ensure that personnel act within legal guidelines.

## **324.7 ADDITIONAL CONSIDERATIONS PERTAINING TO JUVENILES**

### **324.7.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY**

When emergency medical attention is required for a juvenile who is either in secure or non-secure custody, the paramedics will be called. The SAC shall be notified of the need for medical attention for the juvenile.

In cases where injury or illness is life threatening and where lost minutes may be the deciding factor, the arresting agent or the discovering agent should administer first aid prior to the arrival of the paramedics. The juvenile will then be transported to a medical facility. In the event of a serious illness, suicide attempt, injury or death of a juvenile, the following persons shall be notified as soon as possible:

- a. The Juvenile Court.
- b. The parent, guardian, or person standing in loco parentis, of the juvenile.

### **324.7.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY**

The arresting agent should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill himself/herself, or any unusual behavior which may indicate the juvenile may harm himself/herself while in custody in either secure or non-secure detention.

The detaining or transporting agent is responsible to notify the SAC if he/she believes the juvenile may be a suicide risk. The SAC will then arrange to contact a mental health team for evaluation, or to contact Juvenile Hall and arrange for the transfer of the juvenile, providing the juvenile meets the intake criteria. The juvenile shall be under constant personal supervision until the transfer is completed.

### **324.7.4 DISCIPLINE OF JUVENILES**

Law enforcement personnel are prohibited from administering discipline to any juvenile.

### **324.7.5 DEATH OF A JUVENILE WHILE DETAINED**

The District Attorney's Office and the Sheriff-Coroner's Office having jurisdiction will conduct the investigation of the circumstances surrounding the death of any juvenile being detained at this department. The Professional Standards Group will conduct an administrative review of the incident.

In any case in which a juvenile dies while detained by the California Department of Justice, the Director or designee shall submit a report to the Attorney General pursuant to Government Code § 12525.

### **324.7.7 PROTECTIVE CUSTODY**

Pursuant to Welfare and Institutions Code § 300 et seq., a child may be taken into protective custody if he/she is the victim of suspected child abuse or neglect. Before taking any minor into protective custody, the agent should make reasonable attempts to contact the appropriate child welfare authorities to ascertain any applicable history or current information concerning the minor.

Under certain circumstances, agents can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs. Agents shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

## 324.8 INTOXICATED AND SUBSTANCE ABUSING MINORS

Juveniles who are arrested while intoxicated may be at risk for serious medical consequences, including death. Examples include acute alcohol poisoning, seizures and cardiac complications of cocaine, markedly disordered behavior related to amphetamines or hallucinogenic drugs, and others.

A medical clearance shall be obtained prior to detention of juveniles at the California Department of Justice when the juvenile displays outward signs of intoxication or is known or suspected to have ingested any substance that could result in a medical emergency (Title 15, California Code of Regulations § 1431). In addition to displaying outward signs of intoxication, the following circumstances require a medical evaluation:

- Known history of ingestion or sequestration of a balloon containing drugs in a body cavity.
- Minor is known or suspected to have ingested any substance that could result in a medical emergency.
- A juvenile who is intoxicated to the level of being unable to care for him or herself.
- An intoxicated juvenile whose symptoms of intoxication are not showing signs of improvement.

Juveniles with lower levels of alcohol in their system may not need to be evaluated. An example is a juvenile who has ingested one or two beers would not normally meet this criterion.

- a. A juvenile detained and brought to the California Department of Justice who displays symptoms of intoxication as a result of alcohol or drugs shall be handled as follows:
  1. Observation of juvenile's breathing to determine that breathing is regular. Breathing should not be erratic or indicate that the juvenile is having difficulty breathing.
  2. Observation of the juvenile to ensure that there has not been any vomiting while sleeping and ensuring that intoxicated juveniles remain on their sides rather than their backs to prevent the aspiration of stomach contents.
  3. An arousal attempt to ensure that the juvenile will respond to verbal or pressure stimulation (shaking to awaken). This is the most important monitoring procedure.
- b. Personal observation shall be conducted on a frequent as-is while the juvenile is in the custody of the California Department of Justice, and no less than once every 15 minutes until such time as the symptoms are no longer present. For juveniles held in secure detention inside a locked enclosure, agents will ensure constant audio monitoring is

maintained in addition to conducting the in person visual checks. All other forms of detention require the agent to maintain constant visual supervision of the juvenile.

- c. Any juvenile who displays symptoms suggestive of a deepening comatose state (increasing difficulty or inability to arouse, irregular breathing patterns, or convulsions), shall be considered an emergency. Paramedics should be called and the juvenile taken to a medical treatment facility.
- d. Juveniles undergoing acute withdrawal reactions shall immediately be transported to a medical facility for examination by a physician.

## 326 Elder Abuse

### 326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with direction and understanding of their role in the prevention, detection, and intervention in incidents of elder and dependent adult abuse. It is the policy of the California Department of Justice to treat reports of suspected incidents of elder and dependent adult abuse as high priority potential criminal activity. California statute requires that reports of elder and dependent adult abuse be made to the appropriate agencies. Reports of known or suspected abuse that occurs in a long-term care facility must be made to the local long-term care ombudsman or local law enforcement and, in instances of possible criminal activity, the Department's Bureau of Medi-Cal Fraud and Elder Abuse. Abuse that occurs anywhere other than a facility should be reported to the local county adult protective services agency or to local law enforcement.

#### 326.1.1 BMFEA

Because the mission of the BMFEA involves the investigation and prosecution of elder abuse, BMFEA employees shall report all suspected cases of elder abuse within its jurisdiction to the CID for proper case tracking. Specific questions about jurisdiction should be directed to regional SASs and DAGs. Exemptions for investigating cases that fall outside of BMFEA's jurisdiction must be obtained from BMFEA headquarters.

### 326.2 DEFINITIONS

For purposes of this policy, the following definitions are provided (Welfare and Institutions Code § 15610 et seq. and Penal Code § 368).

**Dependent Adult** - Is any person residing in this state, between the ages of 18 and 64-years, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. Dependent Adult includes any person between the ages of 18 and 64-years who is admitted as an inpatient to a 24-hour health facility, as defined in Health and Safety Code §§ 1250, 1250.2, and 1250.3.

**Elder** - Is any person residing in this state, 65 years of age or older.

**Financial Abuse** - Occurs when a person or entity does any of the following: Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both; assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both; or takes, secretes, appropriates, obtains, or retains, or

assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult by undue influence as defined in Civil Code § 1575.

**Abuse of an Elder or a Dependent Adult** - Means either of the following: Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

**Adult Protective Services Agency** - Is a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff.

**Neglect** - Means either of the following: The negligent failure of any person having the care or custody of an elder or dependent adult to exercise that degree of care that a reasonable person in a like position would exercise, or the negligent failure of an elder or dependent adult to exercise that degree of self-care that a reasonable person in a like position would exercise. Neglect includes, but is not limited to, all of the following:

- a. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
- b. Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone instead of medical treatment.
- c. Failure to protect from health and safety hazards.
- d. Failure to prevent malnutrition or dehydration.
- e. Failure of an elder or dependent adult to satisfy the needs specified above, inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

### **326.3 MANDATORY REPORTING REQUIREMENTS**

Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.



## **328 Discriminatory Harassment**

### **328.1 PURPOSE AND SCOPE**

This policy is intended to prevent department members from being subjected to discrimination or sexual harassment. Nothing in this policy creates a legal or employment right or duty that is not created by law.

### **328.2 POLICY**

The California Department of Justice is committed to creating and maintaining a work environment that is free of all forms of discrimination and intimidation, including sexual harassment. The Department will take preventative, corrective and disciplinary action for any behavior that violates this policy or the rights and privileges it is designed to protect.

The Department has a “zero tolerance” harassment, discrimination, and retaliation policy. Refer to Administrative Bulletins 04-09 and 15-02.

## **330 Child Abuse Reporting**

### **330.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines and procedures for reports of suspected child abuse and the taking of minors into protective custody.

### **330.2 DEFINITIONS**

For purposes of this section the following definitions are provided:

**Child** - A person under the age of 18 years.

**Child abuse** - Includes the following (Penal Code § 11165.6):

- Physical injury or death inflicted by other than accidental means upon a child by another person.
- Sexual abuse as defined in Penal Code § 11165.1.
- Neglect as defined in Penal Code § 11165.2.
- The willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Penal Code § 11165.3.
- Unlawful corporal punishment or injury as defined in Penal Code § 11165.4.

Child abuse does not include a mutual affray between minors. Child abuse does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

### **330.3 CHILD ABUSE REPORTING**

All employees of this department are responsible for the proper reporting of child abuse. Any employee who encounters any child whom he or she reasonably suspects has been the victim of child abuse shall immediately take appropriate action and shall notify the local law enforcement agency having jurisdiction by telephone immediately or as soon as is practicably possible and shall prepare and send, FAX or e-mail a written follow-up report within 36 hours (Penal Code § 11166). If the Department receives a report of child abuse or neglect from a third party of another agency, it shall immediately refer the case by telephone, FAX, or e-mail to the local law enforcement agency having jurisdiction (Penal Code § 11165.9).

### **330.3.3 CONTACTING SUSPECTED CHILD ABUSE VICTIMS**

An agent should not involuntarily detain a juvenile suspected of being a victim of abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless any of the following apply:

- a. Exigent circumstances exist. For example:
  1. A reasonable belief that medical issues need to be addressed immediately.
  2. It is reasonably believed that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
- b. A court order or warrant has been issued.

In all circumstances in which a suspected child abuse victim is contacted, it will be incumbent upon the investigating agent to articulate in the related reports the overall basis for the contact and what, if any, exigent circumstances exist.

Any juvenile student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

### **330.3.4 RELEASE OF REPORTS**

Reports of suspected child abuse shall be confidential and may only be disclosed pursuant to Penal Code § 11167.5 and Policy Manual § 810.

### **330.5 PHYSICAL EXAMINATIONS**

If the child has been the victim of sexual abuse requiring a medical examination, the agent should arrange for transportation of the victim to the appropriate hospital. The agent will need to fill out the Medical Report Suspected Child Sexual Abuse form (OCJP form 925) prior to the doctor doing the examination.

### **330.6 TEMPORARY CUSTODY OF SUSPECTED CHILD ABUSE VICTIMS AND SUSPECTED VICTIMS OF CHILD ABDUCTION**

Under specified circumstances described below, a minor may be taken into protective custody if he/she is the victim of suspected child abuse (Welfare and Institutions Code § 300 et seq.). Before taking any minor into protective custody the agent should make reasonable attempts to

contact the appropriate child welfare authorities to ascertain any applicable history or current information concerning the minor.

An agent should consider taking a minor into protective custody under any of the following circumstances (Welfare and Institutions Code § 305 and Penal Code 279.6):

- a. The agent reasonably believes the minor is a person described in Welfare and Institutions § 300, and further has good cause to believe that any of the following conditions exist:
  1. The minor has an immediate need for medical care.
  2. The minor is in immediate danger of physical or sexual abuse.
  3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a minor left unattended the agent shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the minor into protective custody.
- b. It reasonably appears to the agent that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
- c. There is no lawful custodian available to take custody of the child.
- d. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
- e. The child is an abducted child.
- f. The child is in the company of, or under the control of, a person arrested for Penal Code § 278 or 278.5.

Prior to taking a child into protective custody, the agent should take reasonable steps to deliver the child to another qualified parent or legal guardian unless it reasonably appears that the release would endanger the minor or result in abduction. If this is not a reasonable option, the agent shall ensure the minor is delivered to the appropriate child welfare authority.

Whenever practicable, the agent should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, the agent should contact a supervisor promptly after taking a child into protective custody.

## 332 Missing Person Reporting

### 332.1 PURPOSE AND SCOPE

This policy describes the procedure for reporting missing person information. Penal Code §§ 14200 through 14213 and §§ 14250 and 14251, as well as 42 USC 5779(a), specify certain requirements relating to missing persons.

#### 332.1.1 DEFINITIONS

For the purpose of this policy, the following definitions are provided:

**At risk** - Includes, but is not limited to (Penal Code § 14213) the following:

- A victim of a crime or foul play.
- A person missing and in need of medical attention.
- A missing person with no pattern of running away or disappearing.
- A missing person who may be the victim of parental abduction.
- A mentally impaired missing person.

**Missing Person** - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily or under circumstances that do not conform to his/her ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14213).

**Missing person networks** - Those databases or computer networks available to law enforcement and that are suitable for information related to missing persons investigations. These include the National Crime Information Center (NCIC), the California Law Enforcement Telecommunications System (CLETS), Missing Person System (MPS) and the Unidentified Persons System (UPS).

### 332.4 ACCEPTANCE OF REPORTS

All personnel shall accept any report, including any telephone report, of a missing person, including runaways, without delay and shall immediately notify the appropriate local law enforcement agency.

### **332.10 TRANSMITTING REPORTS TO OTHER AGENCIES**

When the California Department of Justice takes a missing person report, the employee shall promptly notify and forward a copy of the report to the agencies having jurisdiction over the missing person's residence and where the missing person was last seen. If the missing person is under 16 or there is evidence that the person may be at-risk, the reports must also be forwarded within no more than 24 hours to the jurisdiction of the agency where the missing person was last seen (Penal Code § 14205(c)).

## **334 AMBER Alerts**

### **334.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines for alerting the public to important information. This policy addresses AMBER Alerts, Blue Alerts and other methods of public notification.

### **334.2 POLICY**

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

### **334.4 ALERT RESPONSIBILITY**

The Department does not issue AMBER or Blue Alerts. If an employee receives information that meets the criteria for either of these alerts, he/she shall immediately notify the appropriate federal or local law enforcement agency.

### **334.6 MUTUAL AID**

The Department may provide assistance in accordance with the California Law Enforcement Mutual Aid Plan and the California Emergency Plan. Refer to the plans for a description of the scope of assistance the Department may provide and the method by which such assistance is requested.

## **336 Victim and Witness Assistance**

### **336.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

### **336.2 POLICY**

The Division of Law Enforcement is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Division of Law Enforcement will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

### **336.4 CRIME VICTIMS**

Agents should provide all victims with the applicable victim information handouts.

Agents should never guarantee a victim's safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Agents should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written material or victim resources available from the department or a local law enforcement agency.

### **336.5 VICTIM INFORMATION**

The regional office supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

- a. Shelters and other community resources for victims of domestic violence.
- b. Community resources for victims of sexual assault.
- c. Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams (42 USC § 3796gg).
- d. An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- e. A clear explanation of relevant court orders and how they can be obtained.
- f. Information regarding available compensation for qualifying victims of crime.



g. VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.

h. Notice regarding U-Visa and T-Visa application processes.

i. Resources available for victims of identity theft.

j. A place for the investigator's name, badge number and any applicable case or incident number.

k. Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.05; Penal Code § 679.026).

### **336.6 WITNESSES**

Agents should never guarantee a witness' safety from future harm or that his/her identity will always remain confidential. Agents may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Agents should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

## 338 Hate Crimes

### 338.1 PURPOSE AND SCOPE

This department recognizes and places a high priority on the rights of all individuals guaranteed under the Constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of Penal Code § 13519.6(c) and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

### 338.2 DEFINITIONS

**Hate Crimes** - Penal Code § 422.55(a) defines a hate crime as either a violation of Penal Code § 422.6 or a criminal act committed in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- a. Disability
- b. Sex
- c. Nationality
- d. Race or ethnicity
- e. Religion
- f. Sexual orientation
- g. Association with a person or group with one or more of these actual or perceived characteristics
- h. Examples of hate crimes include, but are not limited to:
  1. Interfering with, oppressing or threatening any other person in the free exercise or enjoyment of any right or privilege secured by the constitution or laws because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6).
  2. Defacing a person's property because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6(b)).
  3. Terrorizing a person with a swastika or burning cross (Penal Code § 11411).

4. Vandalizing a place of worship (Penal Code § 594.3).

The federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act expands federal hate crimes to include crimes motivated by a victim's actual or perceived sex, sexual orientation, gender identity or disability (18 USC § 245).

### **338.6 PROCEDURE FOR INVESTIGATING HATE CRIMES**

Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, they shall, without delay, notify the appropriate jurisdiction and make the appropriate referral. If DOJ's assistance is requested, the following should occur:

- a. A supervisor should be notified of the circumstances as soon as practical.
- b. Once "in progress" aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of present suspects, etc.), the assigned agent(s) will take all reasonable steps to preserve available evidence that may tend to establish that a hate crime was involved.
- c. The assigned agent(s) will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime. No victim of or a witness to a hate crime who is not otherwise charged with or convicted of a crime under state law may be detained for or turned over to federal authorities exclusively for any actual or suspected immigration violation (Penal Code § 422.93(b)).
- d. Depending on the situation, the assigned agent(s) or supervisor may request additional assistance from other resources to further the investigation.
- e. The assigned agent(s) will include all available evidence indicating the likelihood of a hate crime in the relevant report(s). All related reports will be clearly marked as "Hate Crimes." The reports will be submitted to the supervisor who, after review, will forward the reports via the chain of command to the Bureau Chief.
- f. The assigned agent(s) will provide the victim(s) of any suspected hate crime with a brochure on hate crimes (Penal Code § 422.92). Such brochures will also be available to members of the general public upon request. The assigned agent(s) should also make reasonable efforts to assist the victim(s) by providing available information on local assistance programs and organizations.

The assigned agent(s) and supervisor should take reasonable steps to ensure that any such situation does not escalate further (e.g., Possible Temporary Restraining Order through the District Attorney or Attorney General) (Penal Code § 136.2 or Civil Code § 52.1 as indicated).

### **338.6.1 BUREAU OF INVESTIGATION RESPONSIBILITY**

If a case is assigned to the Bureau of Investigation, the assigned agent will be responsible for following up on the reported hate crime as follows:

- a. Coordinate further investigation with the District Attorney and other appropriate law enforcement agencies, as appropriate.
- b. Maintain contact with the victim(s) and other involved individuals as needed.
- c. Maintain statistical data on suspected hate crimes to report to the Attorney General upon request pursuant to Penal Code § 13023.

### **338.7 TRAINING**

All agents of this department will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6.

## **342 Department Computer Use**

### **342.1 PURPOSE AND SCOPE**

This policy describes the use of department computers, software and systems. The purpose of this policy is to provide guidelines for Division-specific computer use. This policy is intended as a supplement to the Department's information technology policy, which is found in DOJAM Chapter 15.

### **342.8 UNDERCOVER COMPUTER USE**

The purpose of this section is to provide requirements specific to online investigations of suspected criminal computer activity.

- a. All employees conducting online criminal investigations shall have a user name and password.
- b. All undercover contacts shall be performed on in-house computers. No remote access shall be allowed without the SAC's approval.
- c. DLE employees shall work closely with local prosecutors when investigating Internet crimes.
- d. Online criminal investigations may be initiated at the discretion of the regional office SAC.
- e. As online criminal investigations may require the use of computer hardware/software that will not reveal the identity of the DOJ, and information received as a result of these investigations may be inappropriate for transmission over the DOJ network, regional offices may establish undercover computer facilities (bulletin board systems, Internet service providers, and Web sites) for use in the course of these types of investigations. Establishment of these facilities shall be at the discretion of the SAC, subject to the Bureau Chief's approval.
- f. Regional offices shall establish a procedure to secure and track the use of undercover computers. These computers shall be placed in a secure area separated from employees who are not actively involved in such criminal investigations.
- g. Whenever it is determined that an out-of-state investigation to identify and locate suspects, computers, or data is justified, the appropriate law enforcement agency having jurisdiction shall be notified.

**342.9 Not subject to disclosure due to agent safety concerns**

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## **344 Report Preparation**

### **344.1 PURPOSE AND SCOPE**

Report preparation is a major part of each agent's job. The purpose of reports is to document sufficient information to refresh the agent's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

It is the policy of this department that enforcement activities conducted by its agents and task force members, regardless of the type of activity or the outcome of that activity, be documented in an investigation report.

#### **344.1.1 REPORT PREPARATION**

It is the primary responsibility of the assigned agent to ensure that reports are fully prepared within the specified time frame or that supervisory approval has been obtained to delay the report. The preparing agent must determine whether the report will be available in time for appropriate action to be taken, such as investigative leads or a suspect is in custody.

All personnel with adequate word processing skills are encouraged to complete their own electronic investigation reports. However, agents may dictate their reports, or portions thereof, if transcription resources are available to them. Dictated reports typed by support staff shall include the typist's name and the date typed. Agents who dictate reports by any means shall use appropriate grammar, as content is not the responsibility of the typist.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard, or assimilated by any other sense, and any actions taken. Employees shall not repress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

### **344.2 REQUIRED REPORTING**

An investigation number will be assigned to all investigations conducted by a bureau in which there has been significant participation by bureau personnel. Initiation of an investigation and assignment of an investigation number requires prior approval of either the SAS or SAC, as determined by the regional office SAC.

When obtaining an investigation number, all required information will be entered into CIMS. CIMS will automatically generate the investigation number and track the investigation based on the information entered. CIMS will be updated by the case agent as the investigation progresses.

Written reports are required in all of the following situations unless otherwise approved by a supervisor:

- All investigative activity.
- Service of search/arrest warrants.
- Interviews of suspects, witnesses, victims.
- Assistance to other law enforcement agencies.
- All arrests.
- When surveillance is conducted.
- In every case where force is used by a DLE employee.
- When assets are seized.

All reports will be written in the CIMS word processing function. Task force personnel will be required to utilize the CIMS program for report writing and case tracking when all equipment is installed at their locations. Personnel classifications authorized to write reports are as follows: Special Agent series, Polygraph Examiners, Investigative Auditors, Field Representatives, Retired Annuitants, Associate Governmental Program Analysts, Staff Services Analysts, and Criminal Intelligence Specialists. These authorized personnel are responsible for writing complete and accurate investigation reports.

Report writers should coordinate with other involved employees to ensure the investigation report is accurate and complete. All relevant information, including exculpatory information, shall be included in investigation reports. This information shall be written in a chronological format. Each report shall be numbered sequentially, continuing from the last report number.

All actual or attempted contacts of persons, and the individual(s) making or attempting to make said contacts, shall be documented in a report. This includes, but is not limited to, sworn/non-sworn DLE personnel, allied agency personnel, persons interviewed, surveillance subjects, consensual, parole and probation searches. All locations where these events occurred shall be included in the investigation reports with appropriate addresses or physical descriptions included.

A Public Disclosure form within the CIMS program shall be completed for each individual contacted during community notifications performed pursuant to Penal Code § 290.45. When multiple field contacts are made during an operation and no violations are found, all subjects may be included on one investigation report. However, if a subject is found to be in violation of



the law, that fact shall be documented in a separate investigation report. All activities which could result in liability to the DOJ shall be thoroughly documented. Each time a SAC/SAS or his/her designee approves an extension of reporting time, such approval shall be documented on the CIMS Supervisor's Control Card.

Investigation reports are confidential and the property of the Department. Reports may not be distributed, or the contents revealed, to any individual or agency except as required for official use. In no instance shall reports be distributed without prior approval of the SAC or his/her designee. Agencies or individuals not authorized to receive a copy of the DLE report may request access by stating their need in writing to the SAC, who, with written approval from the DLE Bureau Chief or Assistant Chief, or BMFEA Director or designee, may permit limited access to review or authorize release of a controlled copy. Each report released to an entity outside of the DLE shall include the DLE authorized release stamp on the first page.

All BMFEA reports shall be written in the BMFEA Microsoft Word Report Writing Macro. Once a report has been approved by the supervisor, it shall be entered into the ProLaw Case Tracking System. The following authorized BMFEA personnel classifications are responsible for writing complete and accurate investigation reports:

- a. Special Agent series
- b. Investigative Auditor
- c. Field Representative
- d. Retired Annuitant
- e. Associate Governmental Program Analyst
- f. Staff Services Analyst
- g. Criminal Intelligence Specialist
- h. Associate Information Systems Analyst
- i. Computer Forensic Examiner
- j. Computer Forensic Specialist
- k. Certified Forensic Computer Examiner

### **344.2.1 REPORT FORMAT - DLE**

The following format shall be used on all reports, with variations for specific reports as noted:

- a. **Investigation Title** - The title of the investigation shall be the focus of the investigation which may be the name of an individual, organization or business entity. When there are multiple subjects, the title shall be the name of the primary subject or the first identified subject, followed by the notation "et. al." The entire title shall be capitalized.
- b. **Investigation Number** - The investigation number(s) are assigned through CIMS.
- c. **Investigation Requested By** - The name, rank and agency of the individual initiating a request for DLE services.

- d. **Type of Report** - The type of report being submitted, i.e., Opening Report, Progress Report, Surveillance Report, Arrest Report, etc. (see § 344.2.2).
- e. **Case Assigned Personnel** - Enter the name of the individual to whom the investigation is assigned.
- f. **Person Reporting** - The name of the individual who prepared the report.
- g. **Report Number** - The sequential number of the report being submitted.
- h. **Type of Crime/Incident** - Offense(s) or incident(s) being reported.
- i. **Case Assigned Supervisor** - The name of the supervisor of assigned personnel.
- j. **Date of Report** - The date(s) of the activity(ies) being reported.
- k. **Case Cross-Reference(s)** - Case number(s) from other internal/external investigation report(s).
- l. **Summary** - A concise statement summarizing the events being reported in a specific reporting period. The purpose of the summary is to briefly explain what is contained in the details to follow. The summary shall not exceed the face page of the Investigation Report. The summary should include the date of activity, dollar amount spent, type and quantity of drug(s) purchased, summary of seizures including all assets seized for asset forfeiture, evidence, recovered investigative funds, name(s) of suspect(s), location of activity, and agencies involved. If the Details section of the investigation report is one page or less in length, there is no need for a summary.
- m. **Details of the Investigation** - This is the main body of the Investigation Report. It serves two functions: first, it provides a record of events and facts to be used for prosecution; second, it creates a record of a bureau's investigative activities. The details shall answer the basic questions of who, what, when, where, why, and how, and identify the corpus of the offense being reported. The information shall be as accurate and complete as possible. Report paragraphs shall not be numbered. Report writers shall adhere to the following standards:
  - 1. The last names of all subjects mentioned in the report shall be capitalized.
  - 2. Reports shall be prepared in the first person style of writing. When the reporting personnel is first referred to, the author shall include his/her title, full name, and agency. Thereafter, the author shall refer to him/herself as "I" or "me" throughout the remainder of the Investigation Report. When the author first refers to any law enforcement personnel, the reporting personnel shall include that person's title, full

name when possible, and agency (i.e. Special Agent Ann Smith, Sacramento BGC; Detective David Johnson, San Pablo PD, etc.). When the individual is mentioned again, the title abbreviation and last name only may be used (i.e. SA Smith, Det. Johnson, etc.). The abbreviation SA should be used when referring to Special Agents rather than the word "Agent."

3. The details shall be a chronological narrative of the events being reported.
4. Physical descriptions should be left out of the body of the report unless they are necessary to explain the facts of the offense. Descriptions shall be included in the "Physical Description" section.
5. Each item of evidence shall be referred to by evidence item number in the "Evidence" section of the report. This does not preclude the item(s) from being further described in the body of the report.
6. Vehicle descriptions and registration information should be left out of the body of the report unless they are necessary to explain the facts of the investigation. Descriptions shall be included in the "Vehicles" section of the report.
7. The location description should be left out of the body of the report, unless it is necessary to explain the investigation. Identifying information for the location shall be included in the "Location" section of the report.
8. The informant identification number may be listed at the discretion of the supervisor when the informant is first mentioned in each report. Thereafter, the reporting personnel shall refer to the informant as "CI." In those instances when the activities of more than one informant are being documented in the report, the reporting personnel shall write the report in a manner which clearly distinguishes the activities of each informant.
9. Use of abbreviations and/or acronyms shall be kept to a minimum; when necessary, common abbreviations/acronyms may be used. Prior to using an abbreviation and/or acronym, the word(s) shall be spelled in full the first time it is used. EXAMPLE: Los Angeles Police Department (LAPD).
10. When State funds are used to purchase evidence or as a flash roll, the denominations, serial numbers, series, and plate numbers shall be recorded before going into the field. The numbers from the funds actually expended shall be included in the Investigation Report covering the transaction. When funds are photocopied, a reference to the attached photocopy is sufficient. Photocopies of funds expended shall be placed in the case file.
11. Times used in the report shall be based on the 24-hour clock (military time).

12. When reporting the seizure of evidence or assets or providing a list of evidence, the details shall include the following: date seized, where found, by whom found, by whom seized, by whom photographed, by whom booked, where stored and, when appropriate, the final disposition of the evidence/asset(s). The probable cause for seizing the asset(s) shall also be included. The Investigation Report shall clearly differentiate between items seized pursuant to asset forfeiture and items seized as evidence. If the evidence or assets are cash, jewelry, collectable coins, etc., the details shall also include who was present when the evidence or assets were found and who participated in the counting, inventorying, transporting and booking of the evidence or asset(s).
13. When a bureau conducts an investigation jointly with another agency and it has been determined that the other agency's reports will be the primary investigation reports, a Bureau investigation number shall be assigned, and copies of the other agency's reports shall be attached to the Bureau Investigation Report. In all such investigations, the Bureau report shall contain a summary of the investigation, which shall include complete details of the role of the bureau in the investigation and the identification of all bureau personnel involved. If the outside agency's report contains all required details, the "Details of Investigation" section of the Investigation Report shall have the notation: "See attached (agency name and report number), dated (date of report)." It is the responsibility of the SAS/SA to ensure that those reports provide necessary details of the investigation. If they do not, a complete Bureau Investigation Report shall be prepared.
14. When DLE personnel are required to enter a premises for the purpose of serving an arrest or search warrant, the Investigation Report shall include complete details of the "knock and notice" that was performed prior to entering the building. One person shall be assigned to document the facts relating to the entry. This includes, but is not limited to the name of the agent who performed the "knock and notice," the exact words that were spoken by the agent, the amount of time that elapsed before the door was opened (by the occupant(s) or by force), and, if applicable, any exigent circumstances that created the need to immediately force open the door. Quote the notice/demand made by the agent; do not paraphrase or translate any notices or demands that were made. The Investigation Report shall also include a detailed description of any force used to effect entry, and photographs of any damage that was caused by a forced entry.
15. When DLE personnel enter a premises for any enforcement reason including serving an arrest or search warrant, parole or probation search, consensual search, or a knock and talk, the names and identifying information of all enforcement personnel and all persons present at the scene shall be documented in the Investigation Report.

n. **Physical Description** - The following information shall be included in this section of the investigation report:

1. **Subjects:** This section shall list the physical descriptions of all subjects mentioned in the report. Subjects shall be listed in alphabetical order with the following information in the following format:

- LAST NAME (Capitalized), first name, middle name, AKA(s)
- Address
- Race
- Gender
- Date of birth (DOB)
- Place of birth (POB)
- Height, weight, hair color, eye color
- Driver license number
- Social Security number
- Criminal history record number (CII)
- CDC number
- FBI number
- Any other means of identification such as scars, marks, and tattoos
- If the individual has been identified in a previous report, list the name as above, followed by the notation, "See (report number) dated\_\_\_\_\_." EXAMPLE: See Report #2 dated 5-10-97. If no subjects are referenced in the report, the word "None" shall be entered into this section

2. **Others:** The physical descriptions of witnesses, victims, and associates shall include the following information:

- LAST NAME, first name, middle name
- Address

- DOB
  - Telephone number
  - Driver license number
3. Each person listed in this section shall be identified as a witness, victim or associate. Additional subjects, witnesses, victims or associates developed during the investigation shall be similarly identified when their name first appears in the body of the report. In all subsequent reports where the name of a subject, witness, victim or associate is mentioned again, the original report number which contains the full identification of the individual mentioned shall be cited.
- o. **Vehicles** - This section shall list all vehicles the subject owns and/or drives. The list shall contain the following information, as is appropriate: Vehicle license, aircraft tail number, hull number, year, make, model, color, registered owner, legal owner, storage location, and any other pertinent information.
- p. **Locations** - This section shall include all addresses mentioned in the report and shall contain the following information: Physical address, type of location, associated addresses, and any other pertinent information.
- q. **Telephones** - This section shall include all telephone numbers referred to in the report, and shall contain the following information, as is appropriate: Country code, area code, telephone number, extension, subscriber, type of phone (cell, business, home, message), first linked address, and the names of any persons linked to the number.
- r. **Evidence** - Refer to Policy Manual § 804 for complete details regarding the proper handling of evidence. All evidence seized in a DLE investigation, regardless of whether it was seized by members of the DLE or another agency, shall be reported and fully described in this section. Rather than retyping the other agency's evidence list, it is permissible to attach a copy of another agency's evidence list to the end of a bureau report. In these instances, the bureau report shall include a statement such as "...for additional evidence items, refer to (name of agency) evidence list attached to this report." Evidence includes drugs, weapons, money, cassette recordings, photographs, video tapes, digital recordings of any type, paperwork, or any items that could later be used in the investigation/prosecution of the suspect(s).
1. The evidence list shall include the following:
- Date seized
  - Item number

- Evidence item number
  - Description of the evidence
  - Where found or purchased
  - Found or purchased by whom (if this information is included in the details of the Investigation Report, the information need not be repeated in the evidence list)
  - Where the evidence was retained or booked
  - If the evidence is cash, jewelry, collectable coins, etc., the evidence list shall also include who was present when the evidence was found, who witnessed the finding of the evidence, who photographed the evidence, and who participated in or witnessed the counting or inventorying of the evidence
2. If the information is included in the details of the Investigation Report, the information need not be repeated in the evidence list. If the report is completed prior to analysis of a seized controlled substance, approximate weights can be listed.
  3. Seized firearms shall be listed by caliber, make, model, barrel length (if applicable), and serial number. List any unusual marks or identifying characteristics. All firearms shall be checked through the Automated Firearms System (AFS), and the registered owner, if determined, shall be listed. Results of the AFS checks shall be documented in the Investigation Report. Firearms reported as stolen shall be listed and shall include the reporting agency's name and case number, date of the theft, AFS File Control Number, name of the person contacted at the reporting agency, and name of the personnel making that contact.
  4. Evidence seized indicating ownership shall be listed as "indicia of residency" or "indicia of ownership." The term "miscellaneous papers" shall not be used. If no evidence is referenced in the report, enter the word "None" in this section. All monies expended for the purchase of evidence shall either be listed by denomination, serial number, series date, and plate number, or photocopied to be attached to the appropriate Investigation Report.
  5. All Property Receipts shall be retained in the corresponding investigative file. A copy may be incorporated as an attachment to the Investigation Report.
- s. **Signature of Reporting Personnel/Supervisor and Date** - The reporting personnel's name and title shall be typed under the signature line, and he/she shall sign and date the report when he/she is satisfied with its accuracy and completeness. The SAS's name and title shall be typed under the signature line. The submitting personnel's SAS shall

review the report prior to submission to the SAC and sign and date the report to indicate his/her approval of the report. When the SAC reviews a report, the SAC (or his/her designee) shall initial and date below the SAS's signature, indicating his/her approval. The initials of the reporting personnel and the typist, if applicable, shall be indicated below the signature lines. The dates the report was dictated and typed shall be noted directly below the author/typist initials. This only applies to dictated reports.

- t. **Report Dissemination** - All officials the reporting individual knows will be receiving a copy of a DLE report at the time the report is being written shall be noted as receiving a copy of the report, i.e., "Report Dissemination" on the last page of the Investigation Report. This shall be noted under the author's and his/her supervisor's signature blocks. Any persons not authorized to receive copies of official DLE Investigation Reports, may make a request to receive a copy of a specific report(s) in writing to the SAC who will forward the request to the appropriate Bureau Chief or his/her designee for approval. If any reports are subsequently released, the DLE "Authorized Copy" stamp shall be affixed to the first page of the copied Investigation Report, as outlined in Policy Manual § 344.2.

### 344.2.2 REPORT FORMAT - BMFEA

- a. **Case Name** – The Case Name shall denote the focus of the investigation which may be the name of an individual, organization or business entity. When there are multiple subjects, the title shall be the name of the primary subject or the first identified subject, followed by the notation "et. al." The entire title shall be capitalized.
- b. **Matter ID** - The Matter ID or BMFEA Docket Number shall be assigned to an investigation by the BMFEA Case Intake Division (CID) through the ProLaw Case Tracking System.
- c. **Investigation Requested By** – The source of the complaint that resulted in the initiation of the case shall be identified at the beginning of the report (i.e. Department of Health Care Services, Burbank PD, anonymous complaint, Hot Line complaint, citizen complaint, etc.).
- d. **Date of Report** – This is the date the Report of Investigation (ROI) is prepared. This date is automatically generated by the BMFEA report macro at the conclusion of the report.
- e. **Details of Investigation** – This is the main body of the ROI. It serves two functions: first, it provides a record of events and facts to be used for prosecution; second, it creates a record of a bureau's investigative activities. The details shall answer the basic questions of who, what, when, where, why, and how, and identify the corpus of the offense being reported. The information shall be as accurate and complete as possible. Report paragraphs shall not be numbered. Report writers shall adhere to the following standards:



(NOTE: The term "Investigation Report" as it appears in this section shall be interpreted to mean "Report of Investigation (ROI)".)

1. The last names of all subjects mentioned in the report shall be capitalized.
2. Reports shall be prepared in the first person style of writing. When the reporting personnel is first referred to, the author shall include his/her title, first initial, last name, and agency. Thereafter, the author shall refer to him/herself as "I" or "me" throughout the remainder of the ROI. When the author first refers to any law enforcement personnel, the reporting personnel shall include that person's title, first initial, last name and agency (i.e. Special Agent A. Smith, Los Angeles BMFEA; Detective D. Johnson, San Pablo PD, etc.). When the individual is mentioned again, the title abbreviation and last name only may be used (i.e. SA Smith, Det. Johnson, etc.). The abbreviation SA should be used when referring to Special Agents rather than the word "Agent".
3. The details shall be a chronological narrative of the events being reported.
4. Physical descriptions should be left out of the body of the report unless they are necessary to explain the facts of the offense. Descriptions shall be included in the "Physical Description" section.
5. Relevant vehicle descriptions and registration information shall be included in the narrative body of the ROI.
6. Relevant location descriptions, ownership, or title information shall be included in the narrative body of the report.
7. The informant identification number may be listed at the discretion of the supervisor when the informant is first mentioned in each report. Thereafter, the reporting personnel shall refer to the informant as "CI." In those instances when the activities of more than one informant are being documented in the report, the reporting personnel shall write the report in a manner which clearly distinguishes the activities of each informant.
8. Use of abbreviations and/or acronyms shall be kept to a minimum; when necessary, common abbreviations/acronyms may be used. Prior to using an abbreviation and/or acronym, the word(s) shall be spelled in full the first time it is used. EXAMPLE: Kings County Narcotic Task Force (KCNTF).
9. When state funds are used to purchase evidence the denominations, serial numbers, series, and plate numbers shall be recorded before going into the field. The numbers from the funds actually expended shall be included in the Investigation Report covering the transaction. When funds are photocopied, a reference to the attached photocopy is sufficient. Photocopies of funds expended shall be placed in the case file.

10. Times used in the report shall be based on the 24-hour clock (military time).
11. When reporting the seizure of evidence or assets or providing a list of evidence, the details shall include the following: date seized, where found, by whom found, by whom seized, by whom photographed, by whom booked, where stored and, when appropriate, the final disposition of the evidence/asset(s). The probable cause for seizing the asset(s) shall also be included. The Investigation Report shall clearly differentiate between items seized pursuant to asset forfeiture and items seized as evidence. If the evidence or assets are cash, jewelry, collectable coins, etc., the details shall also include who was present when the evidence or assets were found and who participated in the counting, inventorying, transporting and booking of the evidence or asset(s).
12. When BMFEA conducts an investigation jointly with another agency and it has been determined that the other agency's reports will be the primary investigation reports, a Bureau investigation number shall be assigned, and copies of the other agency's reports shall be attached to the Bureau Investigation Report. In all such investigations, the Bureau report shall contain a summary of the investigation, which shall include complete details of the role of the bureau in the investigation and the identification of all bureau personnel involved. If the outside agency's report contains all required details, the "Details of Investigation" section of the Investigation Report shall have the notation: "See attached (agency name and report number), dated (date of report)." It is the responsibility of the SAS/SA to ensure that those reports provide necessary details of the investigation. If they do not, a complete Bureau Investigation Report shall be prepared.
13. When BMFEA personnel are required to enter a premises for the purpose of serving an arrest or search warrant, the Investigation Report shall include complete details of the "knock and notice" that was performed prior to entering the building. One person shall be assigned to document the facts relating to the entry. This includes, but is not limited to the name of the agent who performed the "knock and notice," the exact words that were spoken by the agent, the amount of time that elapsed before the door was opened (by the occupant(s) or by force), and, if applicable, any exigent circumstances that created the need to immediately force open the door. Quote the notice/demand made by the agent; do not paraphrase or translate any notices or demands that were made. The Investigation Report shall also include a detailed description of any force used to effect entry, and photographs of any damage that was caused by a forced entry.
14. When BMFEA personnel enters a premises for any enforcement reason including serving an arrest or search warrant, parole or probation search, consensual search, or a knock and talk, the names and agencies of all enforcement personnel and all persons present at the scene shall be documented in the Report of Investigation.

- f. **Physical Description** – Subjects: Primary identifying information of the subject of the ROI shall be included at the top of the report in the Contact Information section. This information shall include the full name, known aliases, DOB, address, SSN, telephone, and OLN. The subject shall be further identified in the body of the report as Subject, Victim, Witness, or Associate. These individuals shall be appropriately identified when their name first appears in the body of the report.
- g. **Vehicles** - If, based upon the judgment of the author, a Vehicle Report would significantly enhance the organization and composition of the information in the case reports (i.e. surveillance data; asset forfeiture data), a Vehicle Report would be acceptable. All vehicles listed shall contain the following information, as appropriate: Vehicle license, aircraft tail number, hull number, year, make, model, color, registered owner, legal owner, storage location, and any other pertinent information.
- h. **Evidence** - Refer to Policy Manual § 804 for complete details regarding the proper handling of evidence. All evidence seized in a BMFEA investigation, regardless of whether it was seized by members of BMFEA or another agency, shall be reported and fully described in this section. Rather than retyping the other agency's evidence list, it is permissible to attach a copy of another agency's evidence list to the end of the report. In these instances, the Bureau report shall include a statement such as "...for additional evidence items, refer to (name of agency) evidence list attached to this report." Evidence includes drugs, weapons, money, cassette recordings, photographs, video tapes, digital recordings of any type, paperwork, or any items that could later be used in the investigation/prosecution of the suspect(s).

1. The evidence list shall include the following:

- Date seized
- Item number
- Evidence item number
- Description of the evidence
- Where found or purchased
- By whom found or purchased (If this information is included in the details of the Investigation Report, the information need not be repeated in the evidence list)
- Where the evidence was retained or booked
- If the evidence is cash, jewelry, collectable coins, etc., the evidence list shall also include who was present when the evidence was found, who witnessed the finding of the evidence, who photographed the evidence, and who participated in or witnessed the counting or inventorying of the evidence.

2. Seized firearms shall be listed by caliber, make, model, barrel length (if applicable), and serial number. List any unusual marks or identifying characteristics. All firearms shall be checked through the Automated Firearms

System (AFS), and the registered owner, if determined, shall be listed. Results of the AFS checks shall be documented in the Investigation Report. Firearms reported as stolen shall be listed and shall include the reporting agency's name and case number, date of the theft, AFS File Control Number, name of the person contacted at the reporting agency, and name of the personnel making that contact.

3. The term "miscellaneous papers" shall not be used. All monies expended for the purchase of evidence shall either be listed by denomination, serial number, series date, and plate number, or photocopied to be attached to the appropriate Investigation Report.
4. All Property Receipts shall be retained in a three ring binder identified by the calendar year and secured in each BMFEA regional office documentary evidence room. As soon as is practical, the property receipts shall be scanned into the ProLaw Case Tracking System. A copy of the property receipts may be incorporated as an attachment to the Report of Investigation.

### **344.3 INVESTIGATION REPORT TYPES/REQUIREMENTS**

#### **344.3.1 DLE REPORTS**

The type of report used is predicated by the circumstances being reported and the progress of the investigation. Below are submission requirements of the various report types. Except as noted, the first paragraph(s) should summarize the investigative activities completed during the relevant reporting period.

- a. **Opening Report** - When sworn/non-sworn personnel are in receipt of information that may be suitable for investigation by his/her bureau, he/she shall present the information to his/her SAC/SAS for evaluation. If the SAC/SAS determines that the information meets Division guidelines and is suitable for investigation, he/she should assign appropriate personnel and authorize the issuance of an investigation number. An Opening Report shall be submitted no later than seven (7) working days after an investigation has been opened. Once a request for investigative services has been made, the following details shall be included in the opening report:

- Name of requester
- Date of request
- Criminal/non-criminal case
- County code
- New or reopened case

- Nature of the request: evaluation, assistance or investigation
  - Additional indexing
  - Disposition
  - Purge date
- b. **Opening/Arrest Report** - When some, but not all, of the suspect(s) are arrested before an Opening Report can be submitted, the agent shall submit an Opening/Arrest Report detailing the initiation of the investigation, the investigation conducted, and the facts surrounding the arrest(s). The Opening/Arrest Report does not close the investigation. There can be multiple suspects in an investigation, and they may not be arrested at the same time. An investigation can have multiple arrest reports before it is closed. This report type shall not be used to avoid the necessity of submitting Opening Reports. The Opening/Arrest Report shall be submitted to the prosecuting authority within forty-eight (48) hours of an arrest. Since most jurisdictions require all reports related to in-custody arrest(s) be submitted to the District Attorney's Office within 48 hours of the arrest(s), Opening/Arrest reports shall be generated within this time frame. The only exception is at the discretion of the prosecuting authority handling the case. Any such exception shall be noted in CIMS, along with the name of the prosecutor and date of approval.
- c. **Opening/Closing/Arrest Report** - When an investigation is closed by the arrest(s) of the suspect(s) before an Opening Report has been submitted, the closing of the investigation shall be reported in an Opening/Closing/Arrest Report. The report shall contain details concerning the initiation of the investigation, the investigation conducted, any arrests made, and the closing of the investigation. The last sentence in the Opening/Closing/Arrest Report shall state: "This report closes the investigation." This report type shall not be used to avoid the necessity of submitting Opening Reports. The Opening/Closing/Arrest Report shall be submitted to the prosecuting authority within 48 hours of an arrest.
- d. **Opening/Closing Report** - When, prior to the submission of an Opening Report, sufficient information has been gathered on an investigation and it is determined by the SAC/SAS that no further action can be taken or is necessary but the information is deemed to be of significant value, an investigation number shall be assigned. If this occurs, the assigned personnel shall submit an Opening/Closing Report detailing the information gathered during the investigation. When an arrest involves minimal participation by DLE personnel, and the SAS determines that an Opening/Arrest Report is not appropriate, an Opening/Closing Report may be prepared summarizing the investigation prior to the DLE's involvement. The report shall detail the Division's participation and the circumstances of the arrest. An example of minimal participation includes instances where DLE personnel assist another agency with the service of search and/or arrest warrants. The Opening/Closing Report shall be submitted within seven (7) working days of the determination that the investigation will be closed, unless

an extension is approved by the SAC/SAS or his/her designee. The last sentence in the Opening/Closing Report shall state: "This report closes the investigation."

- e. **Progress Report** - Once an investigation is opened and an Opening or Opening/Arrest Report has been submitted, all investigative steps taken thereafter shall be documented. Progress Reports shall be submitted as events occur during the course of an investigation, as frequently as necessary, with no more than sixty (60) days between reports. The SAC/SAS or his/her designee may extend the reporting period by thirty (30) days, not to exceed a total of ninety (90) reporting days. Each Progress Report shall include details of all investigative activity conducted or information learned since the submission of the last report. A Progress Report shall be submitted within seven working days of the expenditure of state funds in connection with an investigation. If the investigation is inactive longer than 60 days, the SAC/SAS shall make a determination as to whether the investigation should be concluded and a Closing Report prepared. If the investigation is not closed, the last sentence of the report shall state: "This investigation is ongoing."
- f. **Surveillance Report** - When surveillance is conducted, a Surveillance Report shall be completed. This report shall reflect all activities and observations conducted during surveillance. Surveillance activity may be included in the Progress Report when a separate Surveillance Report is not deemed necessary, a determination that will be made by the reporting personnel and his/her supervisor. Surveillance Reports shall be submitted within seven working days of the surveillance activity, unless an extension is approved by the SAC/SAS or his/her designee. If the investigation is not closed, the last sentence of the report shall state: "This investigation is ongoing."
- g. **Arrest Report** - When subjects of an investigation are arrested as a result of a bureau's efforts and the investigation has previously been opened, an Arrest Report shall be submitted. This report shall detail all activities since the last report, including the details of any arrest. The summary paragraph of the Arrest Report shall summarize the events leading to the arrest, with emphasis on the involvement of the arrested suspect(s) and the offenses with which they are being charged. An arrest report shall not be used to close an investigation. When a bureau assists another agency with an arrest, an Arrest Report shall be completed or a copy of the other agency's Arrest Report shall be attached to the DLE Arrest Report. The Arrest Report shall be submitted to the prosecuting authority within 48 hours of an arrest unless a Filing Report is submitted, in which case the Arrest Report shall be submitted within seven working days. An extension may be approved by the prosecuting authority, the SAC/SAS or his/her designee. If the investigation is not closed, the last sentence of the report shall state: "This investigation is ongoing."
- h. **Closing/Arrest Report** - When an arrest closes a previously opened investigation, a Closing/Arrest Report shall be submitted. This report shall detail the activities that have occurred since the last investigation report was submitted. The summary paragraph shall

summarize the events leading to the arrest, with special emphasis on the subject(s) of the Arrest Report and related evidence. All Arrest Reports shall be submitted within 48 hours unless a Filing Report was submitted, in which case, the Closing/Arrest Report shall be submitted within seven (7) working days. The last sentence in the summary of a Closing/Arrest Report shall state, "This report closes the investigation."

- i. **Financial Investigation Report** - If, during the course of an investigation or following an arrest, it is determined that assets are subject to seizure/forfeiture, a financial investigation shall be initiated and a Financial Investigation Report shall be submitted in accordance with guidelines set forth in Policy 606 of this manual and the Financial Investigation Procedures Manual. Financial Investigation Reports shall be submitted within seven (7) working days of the receipt of the information being reported, unless an extension is approved by the SAC/SAS or his/her designee. If the investigation is not closed, the last sentence of the report shall state: "This investigation is ongoing."
- j. **Closing Report** - During an investigation, it may be determined that the investigation can proceed no further. In such a situation, a Closing Report shall be submitted detailing the activities that have occurred since the last Investigation Report, and the reasons why the investigation is being concluded. A Closing Report shall include paragraph(s) within the Details portion of the report that briefly summarize the investigation. The SAC/SAS shall be consulted prior to the closing of an investigation and shall make the final determination. The Closing Report shall be submitted within seven working days of the determination that the investigation will be closed, unless an extension is approved by the SAC/SAS or his/her designee. The last sentence of the Closing Report shall state: "This report closes the investigation." Any additional information submitted after completing a Closing Report shall be reported on a Supplemental Report.
- k. **Supplemental Report** - When additional information has been obtained which has been deemed pertinent to a previously closed investigation, a Supplemental Report shall be submitted, unless a request has been initiated to reopen a closed investigation. In these situations, Progress Reports detailing the investigation shall be submitted, thereby eliminating the need for a Supplemental Report. The SAC/SAS may require periodic Supplemental Reports detailing the progress of the prosecution of the suspects through the court system and the final disposition of the case(s). Supplemental Reports shall be submitted within seven working days of the receipt of the additional information or the conclusion of any necessary follow-up investigation, unless an extension is approved by the SAC/SAS or his/her designee.
- l. **Re-Opening Report** - When an employee is in receipt of information that may cause a closed investigation to be re-opened by his/her bureau, he/she shall present the information to his/her SAC/SAS for evaluation. If the SAC/SAS determines that the information meets Division guidelines and justifies re-opening the investigation, he/she should assign appropriate personnel and authorize the re-opening of the investigation. A Re-Opening Report shall be submitted no later than seven working days after an

investigation has been re-opened. If the investigation is not closed, the last sentence of the report shall state, "This investigation is ongoing."

- m. **Filing Report** - When an investigation results in the arrest of a suspect and the prosecuting authority requires a report for filing of criminal charges within the statutory 48 hours or less, a Filing Report summarizing the investigation and arrest may be completed. This procedure requires the concurrence of the prosecuting authority. The Filing Report shall not replace the necessity of an Arrest Report, which shall be completed within seven (7) working days, unless an extension is approved and documented by the SAC/SAS or his/her designee.
- n. **Interview Report** - When interviews are conducted, an Interview Report may be used. When interviews are brief, they may be included in the Details portion of the appropriate investigation report rather than a separate Interview Report. The interviewer shall document whether the interview was recorded and make note of where the recording is stored, in compliance with Policy 804 of this manual. The Details section of the Interview Report shall identify the interviewer, the subject interviewed, the date, time and location of the interview, the subject's relationship to the case, subject identifying information, and relevant information stated during the interview. At the request of a Supervising Deputy Attorney General (SDAG), members of the BI Special Investigative Team (SIT) may attach a certified transcript to an Interview Report or refer to the recordings of the individuals interviewed in lieu of writing a detailed report of the interview(s). In the event that several interviews will be reported as part of an investigation, the report writer may write an Interview Report, sequentially numbered, for each of the interviews conducted and include a brief statement of the interview in the appropriate Progress Report. The brief statement shall include the interviewer; the subject interviewed; the date, time and location of the interview; the subject's relationship to the case; subject's identifying information; and a statement of the interview content and its relevance to the case. The Interview Report shall be referenced by report number in the Progress Report. The Interview Report shall be submitted within seven working days of the interview. With prior approval from the SAC/SAS, an Interview Report may be released to a client within the DOJ. If the investigation is not closed, the last sentence of the Interview Report shall state: "This investigation is ongoing."
- o. **Background Investigation Report** - When a request for a background investigation on an employment candidate is made, the Background Investigation Unit shall assign a unit employee or notify the appropriate SAC to assign an agent or other qualified bureau personnel to conduct the investigation. The investigating personnel shall report his/her findings in a Background Investigation Report via his/her supervisor. Background Investigation Report numbers and report due dates shall be assigned by the Background Investigation Unit.
- p. **Evaluation Report** - An Evaluation Report shall only be prepared at the direction of a Bureau Chief or Assistant Chief to report the results of preliminary inquiries. An



Evaluation Report shall be assigned an investigation number, and the report(s) shall be numbered consecutively. Evaluation Reports shall contain a paragraph depicting the SAC's recommendation as to whether or not to open an investigation followed by the SAC's signature block. The SAC's signature block shall be manually created in the reports. If an evaluation results in the opening of an investigation, the Opening Report shall be designated as Report #1. An evaluation is not an investigation of the facts alleged by the requester, but rather a means to determine the following:

- Whether the request includes complete information and facts upon which the decision to conduct an investigation can be made;
- If an investigation is necessary; and
- If the DLE is the proper agency to conduct such an investigation.

General report procedures are found in the CIMS Manual.

Requests for civil investigations will be documented in CIMS. It is the responsibility of the SAC to ensure that all data requested in the CIMS format is complete and accurate. If multiple named subjects exist, the primary subject shall be identified as the investigation title, and additional subjects shall be identified on individual subject cards within CIMS. In reports requiring a summary, the summary shall be a concise statement summarizing the events being reported in a specific reporting period.

### **344.3.2 BMFEA REPORTS**

The type of report used is predicated by the circumstances being reported and the progress of the investigation. Below are submission requirements of the various report types. Except as noted, the first paragraph(s) should summarize the investigative activities completed during the relevant reporting period.

a. Opening Report:

1. Self Generated Investigation – When sworn/non-sworn personnel are in receipt of information that may be suitable for investigation by BMFEA, he/she shall present the information to his/her SAC/SAS/IAS for evaluation. If the SAC/SAS/IAS determines that the information meets Division guidelines and is suitable for investigation, he/she should assign appropriate personnel and authorize the preparation of a BMFEA Case Complaint form and the issuance of a Matter ID number by CID. An Opening Report shall be submitted no later than seven (7) working days after an investigation has been opened.
2. Case Referral - When sworn/non-sworn personnel have been assigned a complaint that has been referred by another agency for investigation by

BMFEA, he/she shall prepare an Opening Report no later than seven (7) working days after the investigation has been activated in the ProLaw Case Tracking System.

- b. Progress Report: A Case Progress Notation shall be entered into ProLaw under the "Notes" heading if insufficient case activity has taken place within the last 90 days to justify the preparation of an ROI.
- c. Surveillance Report: When surveillance is conducted, a Surveillance Report shall be completed. This report shall reflect all activities and observations conducted during surveillance. Surveillance Reports shall be submitted within seven working days of the surveillance activity, unless an extension is approved by the SAC/SAS or his/her designee. If the investigation is not closed, the last sentence of the report shall state: "This investigation is ongoing."
- d. Arrest Report: When subjects of an investigation are arrested as a result of the Bureau's efforts and the investigation has previously been opened, an Arrest Report shall be submitted. This report shall detail all activities involving the arrest(s). The summary paragraph of the Arrest Report shall summarize the events leading to the arrest, with emphasis on the involvement of the arrested suspect(s) and the offenses with which they are being charged. An arrest report shall not be used to close an investigation. When a bureau assists another agency with an arrest, an Arrest Report shall be completed or a copy of the other agency's Arrest Report shall be attached to the BMFEA Arrest Report. The Arrest Report shall be submitted within 48 hours of an arrest unless a Filing Report is submitted, in which case the Arrest Report shall be submitted within seven (7) working days. An extension may be approved by the prosecuting authority, the SAC/SAS or his/her designee. If the investigation is not closed, the last sentence of the report shall state: "This investigation is ongoing."
- e. Financial Investigation Report: If, during the course of an investigation or following an arrest, it is determined that assets are subject to seizure/forfeiture, a financial investigation shall be initiated and a Financial Investigation Report shall be submitted in accordance with guidelines set forth in Policy 606 of this manual and the Financial Investigation Procedures Manual. Financial Investigation Reports shall be submitted within seven (7) working days of the receipt of the information being reported, unless an extension is approved by the SAC/SAS or his/her designee. If the investigation is not closed, the last sentence of the report shall state: "This investigation is ongoing."
- f. Closing Memo: During an investigation, it may be determined that the investigation can proceed no further. In such a situation, a Closing memo shall be submitted summarizing the activities that have occurred since the matter was opened and the reasons why the investigation is being concluded. The SAS/IAS/SAC/DAG shall be consulted prior to the closing of an investigation and shall make the final determination. The Closing Memo shall be submitted within seven (7) working days of the determination that the investigation will be closed, unless an extension is approved by the SAC/SAS/IAS or his/her designee. The last sentence of the Closing Report shall state: "This memo closes

the investigation." Any additional information submitted after completing a Closing Memo shall be reported on a Supplemental Report.

- g. Supplemental Report: When additional information has been obtained which has been deemed pertinent to a previously closed investigation, a Supplemental Report shall be submitted, unless a request has been initiated to reopen a closed investigation. In these situations, Progress Reports detailing the investigation shall be submitted, thereby eliminating the need for a Supplemental Report. The SAC/SAS/IAS may require periodic Supplemental Reports detailing the progress of the prosecution of the suspects through the court system and the final disposition of the case(s). Supplemental Reports shall be submitted within seven working days of the receipt of the additional information or the conclusion of any necessary follow-up investigation, unless an extension is approved by the SAC/SAS/IAS or his/her designee.
- h. Filing Report: When an investigation results in the arrest of a suspect and the prosecuting authority requires a report for filing of criminal charges within the statutory 48 hours or less, a Filing Report summarizing the investigation and arrest may be completed. This procedure requires the concurrence of the prosecuting authority. The Filing Report shall not replace the necessity of an Arrest Report, which shall be completed within seven (7) working days, unless an extension is approved and documented by the SAC/SAS/IAS or his/her designee.
- i. Interview Report: When interviews are conducted, an Interview Report shall be used. The interviewer shall document whether the interview was recorded and make note of where the recording is stored, in compliance with Policy 804 of this manual. The report shall identify the interviewer, the subject interviewed, the date, time and location of the interview, the subject's relationship to the case, subject identifying information, and relevant information stated during the interview. At the request of a DAG, a certified transcript may be attached to an Interview Report or refer to the recordings of the individuals interviewed in lieu of writing a detailed report of the interview(s). In the event that several interviews will be reported as part of an investigation, the report writer shall write an Interview Report, sequentially numbered, for each of the interviews conducted and include a brief statement of the interview in the appropriate.
- j. Background Investigation Report: When a request for a background investigation on an employment candidate is made, the Background Investigation Unit shall assign a unit employee or notify the appropriate SAC to assign an agent or other qualified bureau personnel to conduct the investigation. The investigating personnel shall report his/her findings in a Background Investigation Report via his/her supervisor. Background Investigation Report numbers and report due dates shall be assigned by the Background Investigation Unit.
- k. Evaluation Report: An Evaluation Report shall only be prepared at the direction of a Bureau Chief or Assistant Chief to report the results of preliminary inquiries. An Evaluation Report shall be assigned an investigation number, and the report(s) shall be numbered consecutively. Evaluation Reports shall contain a paragraph depicting the

SAC's recommendation as to whether or not to open an investigation followed by the SAC's signature block. The SAC's signature block shall be manually created in the reports. If an evaluation results in the opening of an investigation, the Opening Report shall be designated as ROI #1. An evaluation is not an investigation of the facts alleged by the requester, but rather a means to determine the following:

- Whether the request includes complete information and facts, upon which the decision to conduct an investigation can be made;
- If an investigation is necessary; and
- If BMFEA is the proper agency to conduct the investigation.

### **344.4 DRUG VIOLATORS**

Drug violators will be classified as A, B, C or D, L, or N by entering the appropriate information into CIMS on each subject of an investigation. The classification is based on the role level of the subject, i.e., wholesaler, distributor, retailer, etc., and the drug quantity of the subject, i.e., level 1, 2, 3 or 4. Drug quantity is determined by the amount of drugs the subject is capable of producing or obtaining. The classifications are defined as follows:

- Class A = 26-32 Points Class B = 18-25 Points
- Class C = 10-17 Points Class D = 2-9 Points
- Class L = Licentiate Class N – Non-Licentiate
- Class O = Other Class V = Violence Suppression

If a subject is not involved in drugs, such as a counterfeiter or an individual who assaults a police officer, enter an "O" for other.

For example, if the subject is a wholesaler (19 points) who regularly distributes over 1,000 grams of heroin (level 1) (10 points), then the total points for this subject is 29. Utilizing the Classification Point Range, 29 points would be a Class A violator. If a subject is a retailer (7 points) who regularly deals under 227 grams of methamphetamine (Level 4) (1 point), then his/her total points would be 8. Using the Classification Point Range, this subject would be a Class D violator. If the subject is not involved in drugs, such as a counterfeiter or an individual who assaults a police officer, enter an "O" for other.

Arrestees or subjects in diversion investigations will not be classified according to the above system. Rather, subjects of diversion investigations will be classified as "L" (licentiate) or "N" (non-licentiate).

#### **Violator Classification Guidesheet**

Role	Points	Role	Points
Financier	22	Distributor	13
Money Launderer	20	Skilled Laborer	10
Lab Operator	19	Retailer	7
Wholesaler	19	Unskilled Laborer	4
Cultivator	16	User	1

### DRUG AND MONEY QUANTITY LEVELS

Type	Level 1	Level 2	Level 3	Level 4
	10 Points	7 Points	4 Points	1 Points
00 Heroin	908+ grams	228-907 grams	114-227 grams	113 grams or less
01 Money	\$250,000+	\$125,001-\$249,999	\$50,001-\$125,000	\$50,000 or less
30 Cocaine	5,000+ grams	2,001-4,999 grams	1,001-2,000 grams	1,000 grams or <
45 Methamphetamine	5,000+ grams	2,001-4,999 grams	1,001-2,000 grams	1,000 grams or <
40 L PCP liquid	1 quart	17-31 fl. ounces	9-16 fl. ounces	8 fl. ounces or <
40 P PCP powder	455+ grams	228-454 grams	114-227 grams	113 grams or <
40 T PCP treated subs.	2,271+ grams	909-2,270 grams	445-908 grams	454 grams or <
20 LSD treated subs.	10,001+ du	5,001-10,000 du	1,001-5,000 du	1,000 du or <
25 Methaqualone	10,001+ du	5,001-10,000 du	1,001-5,000 du	1,000 du or <
55 Barbiturates	50,001+ du	25,001-50,000 du	10,001-25,000 du	10,000 du or <
44 Amphetamines	50,001+ du	25,001-50,000 du	10,001-25,000 du	10,000 du or <
10 P Marijuana (Plants)	751+	501-750	251-500	250 or <
10 B Marijuana (Bulk)	455+ kgs	228-454 kgs	114-227 kgs	113 kgs or <
11 Hashish	4,541+ grams	2,271-4,540 grams	909-2,270 grams	908 grams or <
12 Hashish Oil	1 gallon+	2+ qts. - 1 gallon	9 fl. oz. - 2 qts.	8 fl. oz. or <
13 Psilocybin	18+ kgs	8-17 kgs	3-7 kgs	2 kgs or <

<b>P - Precursors (The level will be determined by the quantity of drug the seized precursor can make.)</b>	<b>Pharmaceutical Drugs (For coding purposes only, i.e., drug quantity level does not apply.)</b>
46 Phenyl-2-propanone	32 Morphine
P02 Methylamine	33 Dilaudid
P03 Ethylamine	34 Methadone
P04 D-lysergic acid	36 Percodan
P05 Ergotamine tartrate	37 Demerol
P06 Diethyl malonate	39 Other Schedule II Narcotics
P07 Malonic acid	49 Schedule II Non-Narcotics

P08 Ethyl malonate	57 Other Sch. III Non-Narcotics		
P09 Barbituric acid	59 Other Sch. III Narcotics		
P10 Piperidine	60 Schedule IV Narcotics		
P11 N-acetylthranilic acid	65 Schedule IV Non-Narcotics		
P12 Pyrolidine	70 Schedule V Narcotics		
P13 Phenylacetic acid	75 Schedule V Non-Narcotics		
P14 Anthranilic acid	80 Non-Scheduled Drugs		
P15 Morpoline			
P16 Ephedrine			
P17 Pseudoephedrine			
<b>CLASSIFICATION POINT RANGE</b>			
CLASS A	CLASS B	CLASS C	CLASS D
26-32 pts.	18-25 pts.	10-17 pts.	2-9 pts.

### 344.5 INJURY OR DAMAGE BY STATE PERSONNEL

Reports shall be taken if an injury occurs that is a result of an act of a State employee. Additionally, reports shall be taken involving damage to State property or State equipment.

### 344.6 DISPOSITION FILE

Each regional office will conduct semi-annual inquiries on all cases pending disposition. The SAS will procure a list from CIMS of all cases needing disposition for each agent under his/her command. Agents will then be tasked with conducting the proper checks on their cases and reporting their findings (date checked and status of case) and the initials of the agent conducting the check on the CIMS printout to the SAS. The SAS will retain the printouts to provide a history of the inquiries made on each pending case. Once a final disposition on the case has been entered into CIMS, the supervisor may destroy the inquiry histories for that case.

Any arrests entered into CIMS will, unless otherwise selected by the case agent, automatically default to a disposition of "Needs." CIMS case pick lists, Case Statistics, Case Inquiry Reports, and Supervisor Control Cards will identify cases with dispositions set to "Needs."

A copy of the completed Case Inquiry Report from CIMS showing the case disposition will be printed. The original will be placed in the investigation file and a copy given to the Evidence Custodian. The completed Case Inquiry Report acts as a case disposition report which alerts the Evidence Custodian to evidence that may either be maintained or destroyed.

It is the responsibility of the SAC to ensure that semi-annual inquiries are being conducted as required.

Each regional task force office will maintain a file of pending case dispositions. It is suggested that the disposition file be arranged in chronological order to easily identify the oldest cases. The TFC will ensure that inquiries are made semi-annually on all cases pending disposition. Each pending disposition form will contain the date, initials of the person making the inquiry, and status of the case so as to document a history of the inquiries. A copy of the completed disposition form will be given to the regional task force Evidence Custodian to assist in determining evidence destruction. The original of the completed disposition form will be placed in the investigative file.

## **344.7 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all agents and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

### **344.7.1 QUALITY OF REPORTS**

The body of the investigation report is the narrative report. Based on the contents of the report, prosecutors decide whether or not to prosecute and for what offenses. Each report is a reflection of both bureau work product and of the sworn/non-sworn personnel's field work and is the document by which his/her ability is judged. No matter how well the investigation was conducted, it has little value if the report is confusing, unclear, or subjective.

### **344.7.2 FIELD NOTES**

Carefully recorded notes help reporting personnel recall facts accurately and describe them fully. At each step of an investigation, reporting personnel shall make appropriate notes in sufficient detail and clarity that the notes provide the basis for a detailed Investigation Report. If a tape recorder is used during an investigation, handwritten notes shall also be taken rather than relying strictly on the tape recording.

- a. Notes taken in the field should record the following:
  1. Activity taking place or being observed
  2. Time of the activity
  3. Who saw the activity
  4. Who performed the activity

5. Location of the activity
  6. Description of suspects and/or vehicles
  7. Weather/lighting conditions
  8. Witness statements
- b. Pursuant to *Thompson v. Superior Court* (1997. 53 Cal App 4th 680), raw written or recorded witness interview notes reflecting the witness' statements, but not the impressions or opinions of the interviewer, are considered statements that are subject to discovery. Therefore, care should be taken to preserve these types of notes from witness interviews, even if the information from the notes is subsequently included in a report. California law does not require law enforcement agencies to retain field notes for purposes of discovery as long as they are accurately reflected in a formal report. However, if the notes are not transferred to a report, if they are retained after the filing of a criminal complaint, or if they are written after the filing of a criminal complaint, the notes are subject to discovery and shall be retained in the investigation file. Original notes need not be retained if:
1. They were made for the purpose of transferring the data to a report.
  2. The report writer acted in good faith in destroying the notes.
  3. The report writer acted in accordance with normal report writing procedures.
  4. If the case is being filed federally, federal law requires reporting personnel to retain all notes pertaining to the case. In any of these circumstances, field notes shall be retained in the regional office investigation file.

### **344.8 REPORT REVIEW**

When a case number is generated in CIMS, a Supervisor Control Card is also generated and is retained for the life of the case in the CIMS database. When a report is completed and ready for supervisory review, the reporting personnel shall mark the report notification "Ready for Approval" and submit it to his/her SAS. The SAS receives a CIMS notification that a report is ready for review. Once reviewed and approved by the SAS, the approval date will be reflected in the Supervisor Control Card. The review process for investigation reports ensures the consistency, timeliness, and quality of the reports. It is the responsibility of all individuals involved in the review process to ensure that the reports produced are complete, concise, accurate, and professional.

Levels of responsibility for the review of investigation reports are as follows:



- a. **Report Writer** - The report writer is responsible for reviewing the report for format, accuracy and timeliness; compliance with the law, Division policy and standards; and inclusion of all of the elements of the offense. The report writer is ultimately responsible for the content and appearance of the report.
- b. **Supervisor** - Supervisory personnel are responsible for reviewing the report(s) for all of the above and for final approval of all electronic and hard copies. Supervisors will be notified, on-line, via CIMS, when reports are ready for approval. Supervisor approval of a Closing Report in CIMS automatically changes the case status from “opened” to “closed.” Supervisors shall review Supervisor Control Cards for open cases on a bi-weekly basis.
- c. **Administrative** - The SAC shall periodically review Investigation Reports to ensure quality, timeliness and consistency throughout the regional office in report writing, the standard of investigations, and the review process. Administrative review is not a requirement to approve all reports; however, SACs are responsible for the quality and consistency of reports of all persons under their supervision. Under no circumstances shall the SAC give proxy rights to clerical/support staff for approving reports in CIMS. SACs may give proxy rights for approving reports to sworn staff who are in an acting SAC capacity. The SAC shall review the Supervisor Control Card for open cases on a quarterly basis.

The SAC shall review all Investigation Reports which involve the seizure of assets; injury to law enforcement personnel, suspects, or innocent parties; the discharge of firearms; or other significant incidents. The SAC shall initial and date the report below the signature of the SAS to document his/her review and approval of the report.

### **344.8.1 REPORT REVIEW - BMFEA**

When a report is completed and ready for supervisory review, the reporting personnel shall submit it to his/her SAS/IAS. Once reviewed and approved by the SAS/IAS, the approval date will be reflected in the ROI and entered into ProLaw. The review process for investigation reports ensures the consistency, timeliness, and quality of the reports. It is the responsibility of all individuals involved in the review process to ensure that the reports produced are complete, concise, accurate, and professional. Levels of responsibility for the review of investigation reports are as follows:

- a. **Report Writer:** The report writer is responsible for reviewing the report for format, accuracy, and timeliness; compliance with the law, Division policy, and standards; and inclusion of all of the elements of the offense. The report writer is ultimately responsible for the content and appearance of the report.
- b. **Supervisor:** Supervisory personnel are responsible for reviewing the report(s) for all of the above and for final approval of all electronic and hard copies. Supervisors will be

notified when reports are ready for approval and shall make all appropriate case status changes in ProLaw reflecting the appropriate event date and the report preparation date. Supervisor approval of a Closing Memo in ProLaw changes the case status from “opened” to “closed”.

- c. Administrative: The SAC shall periodically review Investigation Reports to ensure quality, timeliness, and consistency throughout the regional office in report writing, the standard of investigations, and the review process. Administrative review is not a requirement to approve all reports; however, SACs are responsible for the quality and consistency of reports of all persons under their supervision. Under no circumstances shall the SAC give proxy rights to clerical/support staff for approving reports in ProLaw. SACs may give proxy rights for approving reports to sworn staff that are in an acting SAC/SAS/IAS capacity. The SAC shall review all Investigation Reports, which involve the seizure of assets; injury to law enforcement personnel, suspects, or innocent parties; the discharge of firearms; or other significant incidents. The SAC shall initial and date the report to document his/her review and approval of the report.

### **344.9 REPORT CORRECTIONS**

Supervisors shall review reports for content and accuracy. If a correction is necessary:

- a. DLE - The reviewing supervisor should complete the Supervisor Control Card stating the reasons for returning the report.
- b. BMFEA - The reviewing supervisor should return the original report with the corrections to the report author.

It shall be the responsibility of the report author to ensure that any report returned for correction is processed in a timely manner.

#### **344.9.1 REPORT CHANGES OR ALTERATIONS**

DLE reports that have been approved by a supervisor and closed shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been approved and closed may be corrected or modified by the authoring agent only with the knowledge and authorization of the reviewing supervisor.

BMFEA reports that have been approved by a supervisor are to be scanned into the ProLaw Case Tracking System. The supervisor shall then activate the “check-out” report locking procedure in ProLaw to prevent alteration of the ROI. The ROI shall not be modified or altered thereafter except with approval from the SAC and headquarters.

## **345 Gambling Investigations and Subpoena of Records**

### **345.1 PURPOSE AND SCOPE**

The BGC has broad investigative powers as outlined in the Gambling Control Act (Business and Professions Code § 19800 et seq.) and the Government Code. Business and Professions Code § 19827(a)(4)(A) authorizes the BGC to issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials; § 19827(a)(1)(D) authorizes the BGC to “summarily seize, remove and impound any...documents or records from any licensed premises for the purpose of examination and inspection.”

This policy sets forth procedures to be followed when an investigation involves pursuing the disclosure of the names, addresses and winning amounts of winners of certain jackpot games.

### **345.2 POLICY**

The standardized subpoena, letter and winner notification form will be used to obtain the names, addresses and winning amounts of winners of certain jackpot games as follows:

- a. The case agent will complete an investigation report that justifies requiring a gambling establishment to produce winners’ names, personal information (i.e. address, telephone number, social security number, etc.) and amounts won as set forth in the gambling establishment’s books, records, documents and physical materials. The investigative report should also establish that such personal information cannot be readily obtained by other means.
- b. The report will be submitted via the chain of command to the SAC, who will then present the report to the BGC Bureau Chief with a request for issuance of a narrowly-drawn administrative subpoena (i.e. only requesting personal information actually necessary for the investigation, limited to a reasonable time frame, etc.) to require the gambling establishment to produce its books, records and documents containing the enumerated information. This request shall be accompanied by a proposed BGC administrative subpoena, prepared by the case agent or his/her supervisor, which requires production of the documents containing the requested information.
- c. The case agent or his/her supervisor will prepare a letter, using the standardized template, to be served on the gambling establishment believed to be in the possession of the specified records and documents. This letter shall:
  1. Be addressed to the owner or manager of the gambling establishment.
  2. Outline the BGC’s authority to subpoena, inspect and, if necessary, seize records.

3. Refer to the signed administrative subpoena described in (b), above.
  4. Explain that winners may oppose disclosure of their personal information, such as their addresses, and suggest that the gambling establishment notify the jackpot winners of both the pendency of the subpoena and the time frame during which they may assert their interest by seeking an appropriate court protective order or instituting other legal proceedings to limit the scope or nature of the information disclosed to the BGC.
  5. Have enclosed a sample "Winner Notification Form" that the gambling establishment may choose to utilize when drafting any letter to be sent to the winners.
- d. The subpoena and letter shall be personally served on the gaming establishment owner or manager to whom the letter is addressed.
  - e. The gambling establishment shall be allowed a total of thirty (30) days to respond, in writing, to the subpoena.

## **346 News Media Relations**

### **346.1 PURPOSE AND SCOPE**

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

### **346.2 RESPONSIBILITIES**

The ultimate authority and responsibility for the release of information to the media by the DLE shall remain with the Director; however, in situations not warranting immediate notice to the Director and in situations where the Director has given prior approval, Bureau Chiefs, regional managers and the Press Officer may prepare and release information to the media in accordance with this policy and the applicable law.

BMFEA attorneys, agents and auditors may respond to media inquiries. Permission from supervisors or the Press Office is not required; however, all media contacts must be reported to the Press Office by email, with cc's to the BMFEA Director and the employee's chain of command. Comments to the media should be confined to matters of public record and to the legal procedures involved in the case under discussion. If a media inquiry falls outside these limits, the inquiry should be directed to the press office. BMFEA employees should consult the Criminal Law Division Manual, section 2400, for a more detailed elaboration of the office's policy on media relations.

#### **346.2.1 MEDIA REQUEST**

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the appropriate Bureau Chief. Prior to releasing any information to the media, employees shall consider the following:

- a. At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative.
- b. In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- c. Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Director.

- d. Nothing in this section shall be interpreted to restrict the President of the California Statewide Law Enforcement Association (CSLEA) or his/her designee and the President of the Association of Special Agents (ASA) or his/her designee from providing press releases or commenting to the media on matters concerning the CSLEA or the ASA. In those instances, the CSLEA or the ASA President shall clearly identify themselves as union officials. This section does not authorize to the CSLEA or the ASA to make statements on behalf of the Department or to imply that their opinions are those of the Department.

### **346.2.2 MEDIA CONTACTS**

To ensure proper media coverage of issues or investigations that are sensitive, significant, controversial, and/or related to Bureau, DLE, or DOJ policy, and to ensure that the Director and other DOJ officials are kept informed, regional management should adhere to the following policy:

- a. Non-Routine Media Contacts:
  1. News media requests for information regarding issues that are sensitive, controversial, related to Bureau, DLE, or DOJ policy or otherwise highly unusual shall be referred to the appropriate Bureau Chief for coordination with the Office of the Director.
  2. Prior to scheduling or participating in any press conference or issuing a news release, regional management will notify their Bureau Chief.
  3. The Bureau Chief will notify the Office of the Director of the media contact, and that they will immediately contact the Attorney General's Press Secretary via telephone.
  4. TFCs shall adhere to the guidelines set forth in this Section and report non-routine media contacts to their SAC, who will notify the Press Secretary in the manner prescribed above. The SAC shall report the contacts to their Bureau Chief. In the event the SAC cannot be reached, the Task Force Commander will contact their Bureau Chief, who will ensure proper notification via the chain of command.
  5. Regional management should have the following information ready and available for the Bureau Chief and Press Secretary:
    - a. Names, ages, residences, and professions of suspects;
    - b. Contraband seized, including amount and type, as well as wholesale and street value;
    - c. Charges filed, where booked, bail, arraignment date;

- d. Agencies involved in the investigation;
  - e. Length and scope of the investigation and whether it is continuing;
  - f. Where the arrests were made;
  - g. Any unusual circumstances such as weapons or explosives seized, assets seized, resistance, etc.
6. The Press Secretary and the Bureau Chief will jointly decide upon the method for release of the information. They will also decide which details will be released and will prepare a news fact sheet for media release.
  7. Once the fact sheet has been approved, regional management may join with representatives of other law enforcement agencies in joint press conferences.
  8. Joint press releases issued with other agencies shall be reviewed by the affected Bureau Chief in coordination with the Office of the Director prior to release, if possible. If not, a copy of the release shall be forwarded to the Bureau Chief and Office of the Director as soon as possible.
- b. Routine Media Contacts:
1. Routine contacts with the news media may be handled by regional management or designee. Telephone and personal contacts with reporters on routine matters need not be documented. These routine contacts shall be noted in the DLE Daily Report (Policy 315) under the appropriate heading.
  2. Regional management or designee can provide information to radio, television, and newspaper reporters regarding routine matters.
  3. Task Force Commanders may issue press releases regarding task force activities in accordance with bureau and task force council or executive board policy.
- c. Media Contacts During Enforcement Operations:
1. Regional management must notify their Bureau Chief and the PIO/Press Secretary prior to allowing media personnel to accompany DLE personnel on any enforcement activity.
  2. Based on *Wilson vs. Layne*, media personnel are not permitted in any private dwelling. Any media personnel present during an enforcement activity shall remain in an area which preserves the right to privacy of the subject of the enforcement activity

until a written release from the subject is obtained allowing the media to access private areas.

### **346.3 MEDIA ACCESS**

Authorized and bona fide members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

- a. The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- b. Media representatives may be prevented from interfering with emergency operations and criminal investigations.
  1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Press Information Officer or other designated spokesperson.
  2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for TFR shall be routed through the SAC. A TFR, either for a pre-planned operation or an unplanned incident, should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate controlling tower. If the controlling tower is not known, the Federal Aviation Administration should be contacted (Federal Aviation Regulations § 91.137).
- c. No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
- d. Media interviews with individuals who are in custody shall not be permitted without the approval of the Director and the expressed consent of the person in custody.
- e. Any appearance by any employee on television or radio programs during which the policies of any bureau, the DLE, or the DOJ will be discussed, or any appearance on a program in which the employee represents any bureau, DLE, or DOJ, requires written approval in advance by their Bureau Chief and shall be reported immediately thereafter via the Daily Report to the Director.



- f. No agent, other than a SAC/TFC or a SAS with the approval of the SAC, shall knowingly permit his/her face to be photographed when such photographs are intended for publication in newspapers or magazines, or on Web sites or television.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through a supervisor or the Press Officer.

### **346.4 RELEASE OF INFORMATION**

At no time shall identifying information pertaining to a juvenile arrestee, victim or witness be publicly released without prior approval of a competent court. Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code § 6254(f) shall be restricted in accordance with applicable statutory provisions.

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for information shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the SAC. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.)

#### **346.4.1 RESTRICTED INFORMATION**

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained.

Examples of such restricted information include, but are not limited to:

- a. Confidential peace officer personnel information (See Policy Manual § 1026).
  1. The identities of agents involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved agent or upon a formal request filed and processed in accordance with the Public Records Act.
- b. Criminal history information.
- c. Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.

- d. Information pertaining to pending litigation involving this department.
- e. Information obtained in confidence.
- f. Any information that is otherwise privileged or restricted under state or federal law (Government Code § 6254(k)).

### **346.4.2 RELEASE OF PHOTOGRAPHS**

Official photographs that are part of an investigation, intelligence, or employee personnel files shall not be released or disseminated to the media or general public if there is any concern that doing so could compromise a law enforcement investigation or infringe upon any individual's right to privacy. The decision to release or withhold photographs shall be based upon a consideration of the risk either action could pose to an investigation and the privacy rights of individuals affected by such release. The release of photographs requires prior approval of regional management.

## 348 Court Appearance and Subpoenas

### 348.1 PURPOSE AND SCOPE

This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

#### 348.1.1 DEFINITIONS

For the purpose of this policy, the following definitions are provided:

**On-Call** - When an employee has appeared in court, or is at the time on duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

**Stand-by** - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

**Criminal Trailing Status** - When an employee remains on standby status for additional court sessions until notified otherwise.

**Mandatory Appearance** - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

### 348.2 COURT SUBPOENAS

Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

#### 348.2.1 SERVICE OF SUBPOENA

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1 and Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department.

### **348.2.2 VALID SUBPOENAS**

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

### **348.2.3 ACCEPTANCE OF SUBPOENA**

- a. Only the employee named in a subpoena, his/her immediate supervisor, the person designated by regional management to accept subpoenas or the Litigation Coordinator shall be authorized to accept service of a subpoena (Penal Code § 1328(c)). The person designated by regional management to accept subpoenas shall maintain a chronological log of all subpoenas received by the regional office and provide a copy of the subpoena to each involved employee. If the employee named in a subpoena or his/her supervisor directly accepts a subpoena, that person shall notify the person designated by regional management to accept subpoenas so that it may be recorded on the log.
- b. Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.
- c. Any authorized individual receiving a subpoena shall make a note on the subpoena of the date, time and method of service (in person/by mail).
- d. Any subpoenas duces tecum received by an employee of this division shall immediately be forwarded to the Litigation Coordinator for processing, unless the Litigation Coordinator has expressly directed otherwise.
- e. In most cases, it is not necessary to forward subpoenas for testimony in criminal cases to the Litigation Coordinator.
- f. If an employee or his/her supervisor is unsure of the proper handling of a particular subpoena, the subpoena may cause the Department liability, and/or legal representation is needed, the Litigation Coordinator shall be notified immediately. If appropriate, the Litigation Coordinator will contact the Bureau Chief to discuss the case, get copies of all supporting documents and obtain approval to contact a Senior Assistant Attorney General (SAAG). The Litigation Coordinator may contact a SAAG and request legal representation for the Division, Bureau and/or the employee.

### **348.2.4 REFUSAL OF SUBPOENA**

Except where previous arrangements with the issuing court exist, training, vacations and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court.

If, due to illness or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform his/her immediate supervisor, the court, the Deputy Attorney General, and the district attorney's office of his/her absence. If the employee is incapacitated, it shall then be the responsibility of his/her supervisor to notify the issuing authority of the employee's unavailability to appear. An employee who fails to appear without properly notifying the court may be held in contempt of court.

If the immediate supervisor or other authorized individual knows that he/she will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or other authorized individual may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance and the supervisor or other authorized individual is not reasonably certain that the service can be completed, he/she may refuse to accept service (Penal Code § 1328(e)).

If, after initially accepting service of a subpoena, a supervisor or other authorized individual determines that he/she will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

### **348.2.5 COURT STANDBY**

To facilitate court standby agreements with the courts, employees are required to provide and maintain current information on their address and phone number with the Department.

Employees are required to notify the Department within 24 hours of any change in residence address or home phone number, and to provide accurate and reasonably reliable means or methods for contact. If an employee on standby changes his/her location during the day, the employee shall notify his/her supervisor of how he/she can be reached by telephone.

Employees are required to remain on standby each day the case is trailing. In a criminal case the Deputy District Attorney handling the case is the only person authorized to excuse an employee from standby status.

### **348.2.6 OFF-DUTY RELATED SUBPOENAS**

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with California Department of Justice shall comply with the requirements of the subpoena.

Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

### **348.2.7 FAILURE TO APPEAR**

Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

### **348.3 CIVIL SUBPOENAS**

The Department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by DOJAM § 13400, et seq. In such situations, the Department will also reimburse any employee for reasonable and necessary travel expenses.

The Department will receive reimbursement for the employee's compensation through the civil attorney of record who subpoenaed the employee.

#### **348.3.1 PROCEDURE**

To ensure that the employee is able to appear when required, that the employee is compensated for such appearance, and to protect the Department's right to reimbursement, employees shall follow the established procedures for the receipt of a civil subpoena.

#### **348.3.2 CIVIL SUBPOENA ACCEPTANCE**

Subpoenas shall not be accepted in a civil action in which the employee or Department is not a party without properly posted fees pursuant to Government Code § 68097.6.

#### **348.3.3 PARTY MUST DEPOSIT FUNDS**

The party in the civil action who seeks to subpoena an employee must deposit the statutory fee of \$150 (Government Code § 68097.2) for each appearance before such subpoena will be accepted. Parties seeking to have the employee make multiple appearances must make an additional deposit in advance.

### **348.4 OVERTIME APPEARANCES**

If the employee appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

## **348.5 COURTROOM PROTOCOL**

Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

### **348.5.1 PREPARATION FOR TESTIMONY**

Before the date of testifying, the subpoenaed employee shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

## **348.6 COURTHOUSE DECORUM**

Employees shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

## **348.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE**

Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Director, District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

- a. Providing testimony or information for the defense in any criminal trial or proceeding;
- b. Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or
- c. Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

## **352 Outside Agency Assistance**

### **352.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidance to agents in the request of or answering the request for assistance involving another law enforcement agency.

It is the policy of this department to provide assistance whenever possible, consistent with applicable laws, the policies of this department, the California Law Enforcement Mutual Aid Plan and the California Emergency Plan when another law enforcement agency requests assistance. This department may also request an outside agency to provide assistance.

#### **352.1.1 ASSISTING OUTSIDE AGENCIES**

Generally, calls for assistance from other agencies are routed to the SAC's office for approval. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available agents shall respond and assist in making a lawful arrest. If an agent receives a request in the field for assistance, that agent shall notify a supervisor. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this department provide transportation of arrestees to facilities. Task force assistance shall be authorized by the TFC.

When such assistance is rendered, a case number will be issued to report action taken by California Department of Justice personnel. All details of this division's participation shall be reported.

This division may be asked to assist other law enforcement agencies with various types of investigations, including but not limited to:

- Locating or interviewing witnesses/suspects
- Serving search/arrest warrants
- Conducting probation and parole searches
- Monitoring wiretaps
- Gang investigations
- Undercover operations
- Loaning and installing specialized equipment
- Surveillance



- Multi-jurisdictional investigations
- Exceptionally significant investigations
- Any investigations that exceed the local agency's expertise and/or resources

A request for assistance from another law enforcement agency or local district attorney's office that is based on a claim of conflict of interest shall be directed to the Senior Assistant Attorney General of the Division of Criminal Law.

### **352.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES**

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions. The handling agent or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting or handling agent should secure radio frequencies for use by all involved agencies so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

Allied agency assistance may include, but is not limited to:

- Requests for military resources
- CHP assistance during freeway pursuits
- Large-scale drug investigations
- Violent crime cases in city or county jurisdictions
- Multi-jurisdictional cases

### **352.1.3 MILITARY ASSISTANCE REQUESTS**

All requests for military resources for use by regional offices or task forces shall be made via the chain of command to the Bureau Chief. The Bureau Chief shall forward the request to the designated National Guard liaison officer stationed in BI Headquarters.

## **352.2 CRITICAL EVENT RESPONSE PLAN**

The Critical Event Response Plan is implemented when the Deputy or Assistant Director authorizes the deployment of Division resources to assist in a crisis situation.

### **352.2.1 INCIDENT COMMANDER**

The Deputy or Assistant Director shall appoint an Incident Commander to represent the Division and act as liaison to any affected outside agencies' command posts. The Incident Commander is selected at the discretion of the Deputy or Assistant Director based upon the needs of the situation, irrespective of the individual's classification or bureau assignment. Once the Incident Commander has been appointed, the BI Intelligence Operation Center (IOC) shall notify all Bureau Chiefs, Assistant Chiefs and regional managers of the initiation of the Critical Event Response Plan and the identity of the designated Incident Commander via a Roam Alert. This notification shall serve as authorization for all bureaus to provide support to the Incident Commander as needed.

The Incident Commander is responsible for establishing liaison with each affected outside agency's command staff/command post. Every effort shall be made by the Incident Commander to respond directly to the command post in order to fully assess the need for DLE participation. Upon completion of the assessment, the Incident Commander shall report his/her findings and recommendations to the Deputy or Assistant Director.

### **352.2.2 LEVELS OF RESPONSE**

The response to a crisis situation shall be structured in a three-level approach, with Level III being the most significant. This graduated structure allows for the cumulative escalation of the Division's response when necessary. The IOC and DOJ's Command Center may be integrated as an available resource at any level of response, if necessary.

- a. **Level I** - A Level I event is described as an isolated event requiring only a partial response from the Division. Level I event command posts may be led by the DLE, or the DLE may participate in another agency's command post operation. Examples include homicides or local kidnappings, officer-involved shootings, and command post operations staged in anticipation of future small-scale enforcement operations/events. The Incident Command System (ICS) may be utilized throughout any response at this level.
- b. **Level II** - A Level II requires a response encompassing significant resources of the Division, coordination with several other emergency response agencies. Staffing of the California Emergency Management Agency (Cal EMA), Emergency Operations Center (EOC) may be required. Examples include large-scale enforcement operations/events, significant natural disasters, coordinated evacuations, and several local critical events occurring simultaneously. The ICS shall be utilized throughout any response at this level. The Level II command post may be augmented by the use of DLE's Command Post Vehicle as a forward command post near an event location or as necessary.
- c. **Level III** - A Level III event is a major event or crisis situation requiring the full capabilities of the Division, along with a significant number of federal, state, and local

law enforcement agency resources. Examples include major natural disasters, coordinated evacuations and terrorist attacks. The IOC may be staffed as a command post for executive command during a Level III response. Attention should be paid to the DOJ Business Resumption Plan, located on the Intranet, during a Level III response.

Once the level of response has been determined, the Incident Commander shall be responsible for integrating Division command and control of Division personnel into the established ICS of the event or situation. The Incident Commander shall make assignments of personnel from all participating bureaus, determine local agency needs and coordinate the distribution of resources. All personnel responding in this manner shall be utilized in a fashion that is consistent with the level of training and experience of the personnel responding. It is incumbent upon the Incident Commander to continually assess DLE's role and the need for continued involvement in any given event.

### **352.2.3 RESOURCE GUIDE**

The DLE Resource Guide contains a current listing of personnel and equipment resources that can be applied to any critical event upon request. The purpose for this guide is to provide the Incident Commander with a current list of specialized equipment and personnel with special skills, locations and contact information for deploying the resource(s) as necessary. The DLE Resource Guide shall be maintained and updated biannually by the IOC.

### **352.2.4 AFTER-ACTION REPORT**

At the discretion of the Deputy or Assistant Director or designee, the Incident Commander may prepare an After-Action Report summarizing the event and the level of this division's response. This report shall sufficiently detail the resources committed to the event by the Division, including the number of personnel, overtime hours expended and an itemized list of any specialized equipment utilized during the deployment.

## **354 Handcuff Policy**

### **354.1 PURPOSE AND SCOPE**

This procedure provides guidelines for handling situations involving handcuffing during detentions and arrests. This policy is also applicable to Flexcuffs, which will be considered synonymous with handcuffs for purposes of this policy.

### **354.2 HANDCUFFING POLICY**

The arresting agent should consider the circumstances leading to the arrest, the attitude of the arrested person, and the age, sex, and health of the person before handcuffing. It must be recognized that officer safety is the primary concern.

It is not the intent of the Department to dissuade agents from handcuffing all persons they believe warrant that degree of restraint, nor is it the intent of this policy to create the atmosphere that in order to avoid risk, an agent should handcuff all persons regardless of the circumstances. In most situations handcuffs should be applied with the hands behind the person. Handcuffs should be removed as soon as the arrested person is safely confined within the jail.

When on duty, all agents shall carry handcuffs in good working condition. The handcuffs shall be carried on their person while performing field enforcement duties except when operating in an undercover capacity or when exempted by their SAC/SAS. Rangemasters shall inspect handcuffs annually to ensure adequate working condition.

#### **354.2.1 IMPROPER USE OF HANDCUFFS**

Handcuffing is never done to punish, to display authority, or as a show of force. Persons are handcuffed only to restrain their hands to ensure officer safety. When practical, handcuffs shall be double locked to prevent tightening which may cause undue discomfort or injury to the hands or wrists.

#### **354.2.2 JUVENILES**

Juveniles 14 years of age or older may be handcuffed when the act committed is of a felonious nature or when their acts have amounted to crimes where the agent has a reasonable suspicion the suspect may have a desire to escape, injure themselves, injure the agent or others, or destroy property.

Juveniles under 14 years of age generally will not be handcuffed unless their acts have amounted to a dangerous felony or when they are of a state of mind which suggests a reasonable probability of their desire to escape, injure themselves, the agent or others, or to destroy property.

### **354.2.3 HANDCUFFING OF DETAINEES**

Situations may arise where it may be reasonable to handcuff an individual who may, after subsequent investigation, be released prior to arrest. Such a situation is considered a detention, rather than an actual arrest. Unless arrested, the use of handcuffs on detainees at the scene of a search warrant should continue for only as long as is reasonably necessary to assure the safety of agents and others. Handcuffs should be removed as soon as it is determined that the detained person will not be arrested.

When an individual is handcuffed and released without an arrest, a written report of the incident shall be made to document the details of the detention and need for use of handcuffs.

### **354.2.4 HANDCUFFING OF PREGNANT ARRESTEES**

No arrestee who is in labor shall be handcuffed or restrained by the wrists, ankles or both unless it is reasonably necessary for the safety of the arrestee, agents or others (Penal Code § 6030).

### **354.3 ARREST PROCEDURE**

Absent exigent circumstances, no agent should arrest or attempt to arrest a suspect unless accompanied by another agent or other law enforcement officer.

Arrested suspects shall immediately be handcuffed with their hands behind their backs and searched for weapons, unless circumstances and this policy dictate otherwise. Agents shall utilize proper arrest and control techniques when arresting and handcuffing suspects. All suspects shall be thoroughly searched as soon as possible and, when practical, by the appropriate gender.

If a suspect is injured during an arrest, agents shall proceed with handcuffing the suspect. As soon as possible, medical assistance shall be provided to the injured suspect. The investigation report shall reference the injury and any medical treatment administered. Additionally, a separate memo shall be prepared by the involved agent(s) and submitted, via the chain of command, to their SAC detailing the circumstances of the suspect's injury and the medical treatment administered. Photographs of the suspect and any injuries shall be attached to the investigation report and memo. The SAC shall notify the Bureau Chief of all suspect injuries within 24 hours of occurrence.

Agents assigned to guard or maintain custody of prisoners shall be responsible for maintaining continuous control of prisoners until they are released, turned over to a transporting officer, or turned over to a custody facility after booking. In order to maintain a high degree of officer safety

while maintaining custody of prisoners, agents shall check all areas within reach of the suspect for weapons.

## **356 Megan's Law**

### **356.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish a procedure for the dissemination of information regarding certain registered sex offenders under California's Megan's Law (Penal Code §§ 290 and 290.4). It is the policy of this department to facilitate public access to information allowed by legislation on registered sex offenders.

### **356.2 DEPARTMENTAL DISSEMINATION OF INFORMATION**

Whenever this department determines that it is necessary to provide information to the public regarding a person required to register as a sex offender pursuant to Penal Code § 290 in order to ensure the public safety, such information may only be released by means determined by the Director to be appropriate (Penal Code § 290.45(a)(1)).

Agents shall obtain approval from a supervisor prior to the public release of any information regarding a registered sex offender. Under exigent circumstances, an agent may release the information without prior supervisory approval; however, a supervisor shall be notified of the information release as soon thereafter as is practical.

Included with all public disclosures of information about any registered sex offender will be a statement that the purpose of the release is to allow members of the public to protect themselves and their children from sex offenders (Penal Code § 290.45(a)(2)).

#### **356.2.1 LIMITATIONS ON EXTENDED RELEASE**

The Department may authorize the persons and entities who receive the information about a registered sex offender which is disclosed by the Department to disclose the information to additional persons only if the Department determines that disclosure to those additional persons will enhance the public safety, and only if the Department identifies the appropriate scope of further release. The Department may not authorize any disclosure of such information by its placement on a non-departmental Internet Web site (Penal Code § 290.45(c)(1)).

### **356.3 RELEASE OF INFORMATION VIA THE INTERNET**

Information about a specific offender may be publicly disclosed by way of the Department Internet Web site only when the Department determines that such disclosure is necessary to ensure the public safety (Penal Code § 290.46(g)). However, if the Department discloses a registrant on the Internet Web site, it may not disclose the person's residence address unless such disclosure is authorized pursuant to Penal Code § 290.46, subdivision (b) or (c)(1).

### **356.3.1 INFORMATION PROHIBITED FROM INTERNET RELEASE**

The following information shall not be released over the Department Internet Web site (Penal Code § 290.46(a):

- Any information identifying the victim.
- The name and address of the offender's employer.
- All criminal history of the offender, other than the specific crimes for which the person is required to register.

### **356.3.2 INFORMATION PERMITTED FOR INTERNET RELEASE**

For those offenders listed in Penal Code § 290.46(c)(2) and (d)(2), the following information may be included on the department Internet Web site:

- a. The offender's full name.
- b. The offender's known aliases.
- c. The offender's gender.
- d. The offender's race.
- e. The offender's physical description.
- f. The offender's photograph.
- g. The offender's date of birth.
- h. Crimes resulting in the registration of the offender under Penal Code § 290.
- i. The community of residence and ZIP Code in which the registrant resides or the county in which the person is registered as a transient.
- j. Any other information which the Department deems relevant, such as:
  - 1. Description of the offender's vehicle(s) or vehicle(s) the offender is known to drive (only if the offender is currently wanted for a criminal offense).
  - 2. Dates of crimes resulting in current classification, if a date of release from confinement on the offense is available.



3. Other information which the Department determines is necessary and relevant.

For those offenders listed in Penal Code § 290.46(b)(2), the address at which the offender resides must also be included on the Department Internet Web site in addition to the above.

If the Department releases the address of any offender in any format other than displaying it on the Megan's Law Internet Web site, the Department shall verify that the information is correct. The residence address displayed on the Megan's Law Internet Web site is provided by local law enforcement on the 8102 and is presumed correct for that purpose.

### **356.4 PUBLIC INQUIRIES**

As a general rule information may not be given over the telephone. Members of the public may access detailed sexual offender information by way of their personal computer through the Internet at the Megan's Law Web site maintained by the Department of Justice ([www.meganslaw.ca.gov](http://www.meganslaw.ca.gov)). They may also submit a list of at least six persons directly to the Department of Justice on a designated form to inquire whether any of those persons are required to register as a sex offender and are subject to public notification (Department of Justice fees may apply) (Penal Code § 290.4(a)).

## **362 Identity Theft**

### **362.1 PURPOSE AND SCOPE**

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

### **362.2 REPORTING**

If, during an unrelated investigation, an agent has reasonable cause to believe identity theft has occurred, the agent shall notify the local law enforcement agency where the victim resides at the time of the crime. The reporting agent should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll-free (888) 880-0240.

## **364 Private Persons Arrests**

### **364.1 PURPOSE AND SCOPE**

Refer to the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for issues relating to the handling of private person's arrests made pursuant to Penal Code § 837.

## **368 Limited English Proficiency Services**

### **368.1 PURPOSE AND SCOPE**

Language barriers can sometimes inhibit or even prohibit individuals with limited English proficiency (LEP) from gaining meaningful access to, or an understanding of, important rights, obligations and services. The Department's Bilingual Services Program, a part of the Equal Employment Rights and Resolution (EER&R) office, may be of assistance. In addition, the Bilingual Services Policy is found in DOJAM Chapter 7, Section 8.

## **370 Hearing Impaired/Disabled Communications**

### **370.1 PURPOSE AND SCOPE**

Individuals who suffer from deafness, hearing impairment, blindness, impaired vision, mental or other disabilities may encounter difficulties in gaining meaningful access to, or an understanding of important rights, obligations and services. The Department's Bilingual Services Program, a part of the Equal Employment Rights and Resolution (EER&R) office, may be of assistance. In addition, the Bilingual Services Policy is found in DOJAM Chapter 7, Section 8.

## **376 Chaplains**

### **376.1 PURPOSE AND SCOPE**

The California Department of Justice Chaplain Program is established for the purposes of providing spiritual and emotional support to all members of the Department and their families.

### **376.2 POLICY**

It is the policy of this department that the Chaplain Program shall be a non-denominational, ecumenical ministry provided by volunteer clergy without financial compensation.

### **376.3 GOALS**

Members of the Chaplain Program shall fulfill the program's purpose in the following manner:

- a. By serving as a resource for department personnel when dealing with the public in such incidents as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse, and other such situations that may arise.
- b. By providing an additional link between the community, other chaplain programs and the Department.
- c. By providing counseling, spiritual guidance and insight for department personnel and their families.
- d. By being alert to the spiritual and emotional needs of department personnel and their families.
- e. By familiarizing themselves with the role of law enforcement in the community.

### **376.4 REQUIREMENTS**

Candidates for the Chaplain Program shall meet the following requirements:

- a. Must be above reproach, temperate, prudent, respectable, hospitable, able to teach, not be addicted to alcohol or other drugs, not contentious, and free from excessive debt. Must manage their household, family, and personal affairs well. Must have a good reputation with those outside the church.
- b. Must be ecclesiastically certified and/or endorsed, ordained, licensed, or commissioned by a recognized religious body.
- c. Must successfully complete an appropriate level background investigation

- d. Must have at least five years of successful ministry experience within a recognized church or religious denomination.
- e. Membership in good standing with the International Conference of Police Chaplains (ICPC).
- f. Possess a valid California Driver License.

### **376.6 DUTIES AND RESPONSIBILITIES**

The duties of a chaplain include, but are not limited to, the following:

- a. Provide grief counseling and assist law enforcement personnel and victims at the scene, as first responders regarding issues of critical incidents, traumatic events, and emergency situations, 24 hours a day, 7 days a week.
- b. Assist in making notification to families of department members who have been seriously injured or killed.
- c. After notification, respond to the hospital or home of the department member.
- d. Attend and participate, when requested, in funerals of active or retired members of the department.
- e. Assist sworn personnel in the diffusion of a conflict or incident when requested to by on-scene staff. Respond to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the SAC or supervisor aids in accomplishing the Department's mission.
- f. Counsel with officers and other personnel having personal problems, at their request. Give emotional support to individuals dealing with extreme stress, sorrow, or grief after facing death, an injury, or violence.
- g. Attend department and academy graduations, ceremonies and social events and offer invocations and benedictions, as requested. Provide initial contact in the critical incident stress debriefing process, and follow-up with the employee's family in support of the critical incident process.
- h. Act as a referral resource for peer supporters and assist in their training as needed.
- i. Respond to all major disasters such as earthquakes, bombings and similar critical incidents.

- j. Provide liaison with other religious leaders of the community.
- k. Assist public safety personnel and the community in any other function of the clergy profession as requested.

Chaplains may not proselytize or attempt to recruit members of the Department or the public into a religious affiliation while on-duty unless the receiving person has solicited spiritual guidance or teaching. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or follow-up contact that was provided while functioning as a chaplain for the Department.

### **376.6.1 OTHER RESPONSIBILITIES**

- a. Participate in in-service training classes.
- b. Be willing to enter into training courses to enhance their effectiveness.
- c. Assist in contacting the assisted person's personal clergyperson as soon as possible.
- d. Should a person request a representative/minister of a specific denomination other than a department chaplain, the on-scene chaplain will contact the appropriate clergy as requested.
- e. Make referrals in cases where specialized attention is needed, or in those cases that are beyond the chaplain's ability to assist.
- f. Chaplains may not accept gratuities offered for their services or follow-up contacts while functioning as a chaplain for the California Department of Justice.

### **376.7 CLERGY-PENITENT CONFIDENTIALITY**

No person who provides chaplain services to members of the Department may work or volunteer for the Department in any capacity other than that of chaplain.

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent privilege and shall inform department members when it appears reasonably likely that the member is discussing matters that are not subject to the clergy-penitent privilege. In such cases, the chaplain should consider referring the member to a non-department counseling resource.



No chaplain shall provide counsel to or receive confidential communications from any Department employees concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

### **376.9 OPERATIONAL GUIDELINES**

- a. Chaplains shall be available 24 hours a day, 7 days a week.
- b. Chaplains shall be permitted to ride with officers during any shift and observe California Department of Justice operations, provided the SAC has been notified and approved of the activity.
- c. Chaplains shall not be evaluators of employees and shall not be required to report on an employee's performance or conduct.
- d. In responding to incidents, a chaplain shall never function as an officer.
- e. When responding to in-progress calls for service, chaplains may be required to standby in a secure area until the situation has been deemed safe.
- f. Chaplains shall serve only within the jurisdiction of the Department unless otherwise authorized by the Director or his designee.
- g. Each chaplain shall have access to current personnel rosters, addresses, telephone numbers, duty assignments and other information that may assist in their duties. Such Information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the information.

## **377 Office Administration**

### **377.1 PURPOSE AND SCOPE**

The purpose of this policy is to ensure administrative and security procedures among regional offices, field offices, task forces, and laboratories.

### **377.2 OFFICE HOURS**

Although the working hours of the various employees may differ, the regional offices, field offices, laboratories and Headquarters will maintain business office hours of 0800 to 1700, Monday through Friday.

### **377.3 APPEARANCE OF THE REGIONAL OFFICES, REGIONAL TASK FORCE OFFICES AND BFS LABORATORIES**

It is the responsibility of the regional manager to ensure that his/her office presents a professional, businesslike appearance.

### **377.4 FIELD ENFORCEMENT INSPECTIONS BY SACS**

Each regional office SAC shall conduct a minimum of four field enforcement inspections during each quarter of the fiscal year. A minimum of two of the quarterly inspections shall be conducted outside of normal duty hours. Field enforcement inspections will be scheduled so that each enforcement team or investigative program receives both announced and unannounced inspections during the course of each fiscal year.

A field enforcement inspection is defined as an on-site examination of investigative tactics, techniques, equipment and resource utilization, and adherence to policy and procedures during a field enforcement operation. Attendance at pre- or post-operation briefings is encouraged but does not, by itself, constitute a field inspection.

The SAC shall maintain a field inspection log. The log must be maintained by the SAC for 24 months. Entries in the log older than 24 months may be purged from the record.

### **377.5 BASE STATION AND RADIO LOG**

Regional offices are not required to maintain logs of routine radio traffic. However, in the event of a disaster, agent-involved shooting, or any emergency situation, the supervisor or agent in charge at the scene will assign an agent to maintain a written record of all radio traffic as long as the emergency is in progress. Procedures directed by the Critical Incident Manual will be followed thereafter.

These logs will be maintained for one year following the date of the incident or longer if needed for criminal or civil actions.

### **377.6 SIGN-OUT PROCEDURE FOR AGENTS**

Each regional office will establish a procedure to show temporary absences of agents from the regional office. The agent's name, time of departure, destination, and estimated time of return will be shown.

### **377.7 BULLETIN BOARDS**

All offices will provide and maintain bulletin boards for general office use and for the use of appropriate bargaining units according to the provisions contained in current agreements.

### **377.8 OFFICE FILES**

Each regional office and task force office will maintain, at a minimum, the following types of files:

- Administrative
- Fugitive
- Informant (refer to Policy 608)
- Investigative
- Disposition
- Firearms Qualification\*
- Vehicle\*
- Security
- Training (refer to Policy 1026)
- Personnel (refer to Policy 1026)
- Operational Plans (refer to Policy 405)

\*Task forces need not maintain vehicle files and are exempt from maintaining Firearms Qualification and Personnel files if those files are maintained by the task force employee's parent agency.

### **377.8.1 ADMINISTRATIVE FILE**

This file will contain all matters which are not assigned an investigative number such as general correspondence, memoranda or letters exchanged between other officials and agencies relating to general matters, equipment documentation, and records pertaining to the administration of the office. Correspondence with respect to special cases, such as conflicts of interest, or individuals will be filed in the appropriate investigative file.

### **377.8.2 FUGITIVE FILE**

A bureau fugitive is an individual who is the subject of a bureau investigation, a warrant exists for his/her arrest, and efforts to locate the suspect for purposes of arrest have been unsuccessful. A suspect who has been arrested but who fails to appear in court (FTA) is no longer a bureau fugitive, but is a court fugitive. It is not the policy of the DLE to keep files or conduct semi-annual checks on court fugitives; however, a regional or task force office may track court fugitives if so desired. If FTAs are tracked, these fugitives will be documented utilizing the procedures outlined in this section.

Each regional office and regional task force office will maintain a file of fugitives wanted by that office. It is the responsibility of the primary case agent to assemble a fugitive file as soon as it is determined that the fugitive cannot be located, and not later than 30 days after an un-executed arrest warrant has been obtained. The fugitive file will contain the following:

- a. Each DLE fugitive file will contain the following:
  - Name/Aliases.
  - Regional office or regional task force investigation number.
  - CII number.
  - Warrant number.
  - County from which issued.
  - Date of warrant.
  - Charges/violations.
  - Physical description.

b. Each BMFEA fugitive file will contain the following:

- Completed Fugitive History Form (only initialed once, when the file is first assembled and reviewed).
- Photographs of the fugitive together with notation of the source of the photographs, the dates the photographs were created, the reasons to believe the photographs depict the fugitive, the name of the person who obtained the photographs, whether the photographs were ever used to make a positive identification, and if so, how the positive identification was verified.
- DMV and Operator License Number printouts.
- Arrest warrant abstract.
- Criminal complaint.
- Signed arrest warrant declaration.
- Wanted Persons System (WPS) printout showing the active arrest warrant.
- Handwriting exemplars. Sources may include documents from evidence or a signature from a valid driver license. The exemplars will include a notation identifying the person who obtained them.
- Evidence property sheets showing the location of seized evidence and case materials in storage.
- Reports from the Consolidated Criminal History Reporting System, the Immigration and Naturalization Service (INS), Immigration and Customs Enforcement (ICE), and Criminal Identification and Information (CII).
- When photographs, DMV printouts, or handwriting exemplars are not available, the primary case agent will document this fact in the fugitive file and provide an explanation.
- The assembled file shall be routed to the SAC via the supervisor for approval. Once the SAC has approved the file, the primary case agent shall ensure that all documents in the file are duplicated in .pdf format (many will already exist in that format in ProLaw) and dragged-and-dropped into ProLaw under the “Arrest Warrant Issued - Outstanding” docket event.

The DLE SAC/TFC or BMFEA primary case agent will ensure that semi-annual checks are conducted through the Wanted Person System for the status of the warrant(s) and through DMV for current driver license status and residence addresses. BMFEA will additionally check the

Lexis-Nexis Person Locator and Choicepoint AutotrackXP Faces of the Nation - National Comprehensive Report. A record of the semi-annual checks will be maintained in the fugitive file, and a hard copy of the most recent teletype checks shall also be kept in the file. BMFEA checks will be documented on the Fugitive Due Diligence Records Check form, provided to the supervisor and SAC for review, and then duplicated in .pdf format and posted in ProLaw as a "Fugitive Status Check" docket event.

All DLE bureau fugitives will be identified as such by the case agent in CIMS. Fugitives will be automatically identified in the case pick lists, Supervisor Control Cards, and on the CIMS Case Inquiry Report. Regional task force fugitives will be entered as fugitives in the Central Name Index immediately after fugitive status is established.

The SAC/TFC will ensure that the fugitive status of suspects is canceled immediately after the suspect is determined to no longer be a fugitive.

BMFEA fugitive files will be closed after six years, unless the supervisor and the DAG to whom the case is assigned concur that the search should continue. In that event, the facts of the agreement, the reasons supporting it, and the length of time the case is to remain open will be documented in the fugitive file and in the notes section of the most recent "Fugitive Status Check" docket event in ProLaw.

### **377.8.3 DLE INVESTIGATIVE FILE**

Investigative files will be the repository for official documents relating to bureau and regional task force investigations. These files will be maintained in each regional and task force office. The following procedures apply to both bureau and task force investigative files:

- a. File folder format:
  1. The investigation file will consist of a manila folder with a pre-cut file tab.
  2. The investigation number and name will be affixed to the file tab.
  3. The folders will be filed in numerical order.
  4. Documents will be secured in the folder using two-prong fasteners (Acco-type).
- b. Investigation reports will be secured on the right side of the folder, with the most current report on top. Supporting documents will be secured on the left side of the folder. If attachments are voluminous documents, the information will be summarized in the report and note the location of the documents. Asset Forfeiture documents, if any, may be placed on the left side of the folder under a tab listing Asset Forfeiture, or in a separate binder, divided by case number, maintained by the investigative auditor.

- c. The following documents will be maintained in the investigation file. If the original of a document is needed as evidence, a copy will suffice for the file. All documents in the investigation file are subject to defense discovery.
1. Required documents: Investigation reports, legal documents, search warrants, affidavits, returns, arrest warrants, subpoenas for records (either issued or received), laboratory results (chemical analysis, latent prints), official correspondence relating to the investigation (letters, teletypes, requests for follow-up investigation), criminal history records, property receipts, outside agency reports, fugitive documents, hazardous waste hauler manifests.
  2. Acceptable but not required: Working file documents, newspaper clippings, related investigation reports, identification photographs.
  3. Unacceptable: Evidence, photographs taken for evidentiary purposes, tape cassettes, documents not related to the investigation, address books or other personal non-evidence items belonging to the defendant(s).
- d. Release of Information: Investigation reports contain information which, if misused, can compromise an investigation or lead to harm of the individuals involved in the investigation. SACs/TFCs will ensure that all employees in their office are aware of the sensitive nature of investigative information to make certain that it is not used unlawfully or made available to unauthorized persons. Penal Code § 11140 et seq. prescribes penalties for unauthorized furnishing and receiving of certain criminal records or information. Confidential information is defined, in part, as information gathered by a law enforcement agency for investigation of criminal activity or for law enforcement purposes (Government Code § 6254(f)).
1. Access to investigation reports is limited to:
    - Defendants and their attorneys through appropriate legal processes.
    - Members of criminal justice agencies on a "need-to-know" basis, in accordance with Policy Manual § 344.2.
    - Foreign country agencies on a "need-to-know" and a "right-to-know" basis in certain cases, in accordance with Policy Manual § 344.2.
  2. Persons other than those listed above wishing to obtain copies of investigation reports must submit a written request to the bureau. The information request shall immediately be forwarded to the DLE Litigation Coordinator, who will ensure that the release of information is accomplished in accordance with the Public Records Act (Government Code § 6250 et seq.) and Information Practices Act (Civil Code § 1798 et seq.).

3. Release of information to the news media concerning an investigation will be done in accordance with Policy 346 and DOJAM § 3300. If the release of the information would endanger the safety of a person involved in the investigation or would compromise the investigation, the information will not be released. The decision to withhold information must have a legal basis, rather than unfounded opinion or personal preference. The individual denying the release of information will report such denial, through the chain of command, to the Bureau Chief and the Division's Public Information Officer.

### **377.8.4 BMFEA INVESTIGATIVE FILE**

BMFEA shall utilize ProLaw for all case-related investigative files. ProLaw users have limited access to the investigative file.

The following documents will be maintained in the investigation file. If the original of a document is needed as evidence, a copy will suffice for the file. All documents in the investigation file are subject to defense discovery:

- a. Required - Investigation reports, legal documents, search warrants, affidavits, returns, arrest warrants, subpoenas for records (either issued or received), laboratory results (chemical analysis, latent prints), official correspondence relating to the investigation (letters, teletypes, requests for follow-up investigation), criminal history records, property receipts, outside agency reports, fugitive documents, hazardous waste hauler manifests.
- b. Acceptable - Working file documents, newspaper clippings, related investigation reports, identification photographs.
- c. Working File/Folder - A working file/folder can be maintained by the case Agent and should contain the following:
  1. A copy of the complaint that initiated the investigation, including all material submitted by complainant.
  2. Documents to identify all suspects, such as DMV photo, CDL, CII rap sheets, corporate papers, or licensing information.
  3. All laws, rules and regulations, Medi-Cal bulletins, or other information regarding possible criminal or civil charges that may be considered for filing a complaint.
  4. Working evidence copies.
  5. All field reports, sequentially numbered.



### **377.8.5 FIREARMS QUALIFICATION FILE**

Each Rangemaster will maintain a file of firearms qualification records to document the qualification and proficiency of all agent personnel. Prior to placement in the file, all firearms qualification records will be reviewed and initialed by the SAC.

### **377.8.6 VEHICLE FILE**

A separate file will be maintained on each vehicle assigned to a regional office/lab and its employees. Each file will contain a description of the vehicle, an extra set of keys, the E number, undercover license plate number (if applicable), any out-of-state license plate numbers assigned to the vehicle, copies of all repair orders and recall notices, and any other documents that will create a history of the performance of the vehicle. Copies of accident reports will be kept in regional office vehicle files; they will not be kept in personnel files.

### **377.8.7 SECURITY FILE**

Each regional office/lab shall maintain an office security file, which shall be reviewed whenever the office/lab is inspected. The security file should contain the following records:

- Issuance of office keys, electronic door/gate cards, and alarm access codes.
- Designated emergency/safety coordinators.
- Alarm system tests.
- Alarm response plan.
- Call-out list.
- Alarm monitoring company and local law enforcement responders.
- Names of individuals with access to evidence vaults.

### **377.9 RECORD RETENTION**

Regional managers and supervisors of task forces shall be responsible for ensuring that all documents and information in their offices and respective off-site offices (i.e. narcotic task forces, labs, storage locations, etc.) that are no longer needed in the normal course of business are properly retained or destroyed in accordance with the Department's records management policy found in Administrative Bulletin 10-17 and DOJAM § 04200 et seq., the information security policy found in SAM § 5300, and the record retention requirements in SAM §§ 1600-1695. Documents should be retained in accordance with each bureau's established retention

schedules. Recommended retention periods for various types of records and information may be found on the DGS Web site at <http://www.osp.dgs.ca.gov/recs/49gut2.htm>.

Before any investigative files may be destroyed, approval must be obtained by submitting to bureau headquarters a list of the investigation numbers and subject names associated with the files that are due to be purged.

### **377.9.1 CONFIDENTIAL DESTRUCTION**

Confidential information may be destroyed using one of the following methods:

- a. A mobile document destruction company may dispose of materials at the business location.
  1. If this service is used, the items shall be destroyed in the presence of two DOJ witnessing personnel. These witnesses shall be of the classification of supervisor or above, and shall be present to observe and control all movement of the items until destruction has been completed. No items shall be taken off site for destruction by the document destruction company. The witnessing personnel shall keep a log noting the type of documents destroyed, the amount or weight of the documents to be destroyed, the name/address of the confidential destruction company, witnesses, and date of the destruction. This log shall be retained by the SAC/Laboratory Manager for a period of two years.
- b. Shredding machines may be used by staff.
  1. If this method of destruction is used, the shredder shall reduce the material to a state wherein its information cannot be recovered. The use of a cross-cut shredder that reduces the material to pieces no larger than (1/32" x 7/16") shall be used.
  2. An office or laboratory wishing to purchase a shredder must comply with DOJAM § 04227 in addition to obtaining bureau headquarters approval.
- c. DLE Headquarters offices may deliver confidential material to be destroyed to the DAS Central Services Warehouse for destruction. These items shall be placed in a taped and sealed box and given directly to DAS personnel who will immediately place them in a secure area prior to destruction. These boxes shall not be placed in the office hallways for DAS pick up.

**379 Not subject to disclosure due to agent safety concerns**

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### **379.8.3 MOTION SENSORS**

The alarm system must meet the following motion sensor requirements:

- a. Motion sensors to cover 100 percent of office area, hallways, entry doors and other areas which are identified as necessary, i.e., equipment room, armory and file room.
- b. Motion sensors shall have the following features:
  1. Infrared
  2. Microwave

Exceptions: Regional managers of facilities occupied on a 24-hour basis may request an exemption from the Bureau Chief for the portion of the office which is occupied on the 24-hour basis.

### **379.8.4 EVIDENCE VAULT/ARMORY**

Evidence Vault/Armory Requirements:

- a. Activation and deactivation must be a separate zone from the main office alarm.
- b. There must be a separate alarm pad to activate and deactivate the vault alarm.
- c. The perimeter alarm must be programmed to prohibit arming unless the vault is armed.
- d. There must be three layers of access:
  1. Electronic keyless entry (key pad).
  2. One of the following two options:
    - a. An electronic key card/card reader system (recommended), or
    - b. A mechanical cipher lock or dead bolt with a 1" bolt that:
      1. Must meet UL437 high-security standard.
      2. Must meet ANSI A156.5-1992 grade 1 standards.
      3. Must have a 6-pin tumbler high-security cylinder.
      4. May not be approved by some fire marshals.

3. A touch pad to activate and deactivate vault alarm inside of the vault.
- e. The vault/armory must have a separate entry log from the perimeter alarm.
- f. There shall be shock sensors in all vault/armory walls.
- g. There shall be a hidden closed circuit camera in the vault/armory which must meet the following standards:
  1. Separate wiring from the alarm system.
  2. Motion activated for recording/24 hour of real time recording.
  3. Time and date stamp video recording.
  4. Wired directly to the regional manager's office or other secure location accessible only to the regional manager or designee.
  5. Recorder secured in a locked location or cabinet.
  6. Camera with a wide angle lens and a variable iris for low light conditions.
  7. Camera placed to record the entry door and as much of the vault/armory area as possible.
- h. The vault/armory door must meet all of the following specifications:
  1. Steel frame.
  2. Steel covered solid core with a three-hour fire rating.
  3. Security hinges.
  4. Locks which shall be separated by a minimum of 18" (See attached diagram).
  5. A metal plate of a minimum 1/4" thickness covering any exposed bolt.
- i. Interior lights operated by a motion sensor to activate when the door is opened. A switch will be used to maintain the lights on while working in the vault/armory.

### **379.8.5 ENTRY AND EXIT AVENUES**

All doors and other means to enter or exit a regional office/lab, including windows, doors, patios, and roof access, must be alarmed. Main avenues of entry and exit must be equipped with an emergency exit system in the event of a fire or disaster.

All main entries must act as emergency exits and must be equipped with the following:

- a. Contact sensors
- b. Motion sensors
- c. Keyless entry

### **379.8.6 EXTERIOR DOOR LOCKS**

All exterior doors shall be equipped with locking hardware which is "fail secure." Fail secure means that when the power is interrupted, the door remains in the locked position. Magnetic door hardware is not acceptable for any exterior door or any other door leading into the regional office/lab.

### **379.8.7 WINDOWS**

All windows shall be covered by motion sensors. In addition, all ground floor or easily-accessible windows shall be equipped with shock/breakage sensors.

### **379.8.8 ROOF ACCESS**

All roof accesses shall be alarmed with contact sensors. The door into the office from the roof access shall be covered by a motion sensor.

### **379.8.9 KEYLESS ENTRY SYSTEM**

The keyless entry system is a door lock system which is activated or deactivated with an access card. With individually assigned access cards, access to the office and specific areas within the office can be controlled and monitored.

- a. All offices shall be equipped with a keyless entry system which includes:
  - 1. Individual key cards which identify the specific user.
  - 2. The keyless entry system shall be separate from the alarm system, but may be monitored through the same system.

3. Minimum 72-hour battery backup if power is interrupted.
- b. The following areas shall be equipped with keyless entry:
1. All exterior doors.
  2. Evidence vault.
  3. Equipment room.
  4. Armory.
  5. Any door through which access can be gained into the regional office/lab, such as an interview room with a door leading into the main office area.
  6. Any area identified by the regional manager as needing controlled access and approved by the Bureau Chief.

## **379.9 CLOSED CIRCUIT VIDEO**

### **379.9.1 DIGITAL VIDEO RECORDER**

The regional manager or designee is responsible for maintaining the video recording for the closed circuit cameras in the evidence vault and armory, as well as reviewing the video recorder images whenever there is an evidence or armory vault security issue. The Property Controller/Evidence Custodian may not act as the designee. In the event a recording contains evidence which may be used in a pending administrative or criminal case, the regional manager or designee will be responsible for ensuring the recording is copied and maintained until such time as the matter is resolved.

### **379.9.2 VIDEO TAPE RECORDER**

The regional manager or designee is responsible for maintaining and changing the video tapes for the closed circuit cameras in the evidence vault and armory, as well as reviewing the video recorder images whenever there is an evidence or armory vault security issue. The Property Controller/Evidence Custodian may not act as the designee. Video tapes shall be changed once a week or when full, whichever occurs first. The closed-circuit video camera tapes will be marked with the inclusive dates and maintained secured in the possession of the regional manager for one year. After the one-year period, the tapes may be recycled. In the event a tape contains evidence which may be used in a pending administrative or criminal case, the tape will be maintained until such time as the matter is resolved.

## **380 Child Safety Policy**

### **380.1 PURPOSE AND SCOPE**

The California Department of Justice recognizes that children who are subjected to traumatic events, such as the arrest of a parent or guardian, may experience negative emotional effects that can last throughout the lifetime of the individual. After such an event the child may not receive the appropriate care, which can lead to further emotional or physical trauma. This policy is intended to provide guidelines for agents to take reasonable steps to minimize the impact to the child when it becomes necessary to take action involving the child's parent or guardian (Penal Code § 833.2(a)).

#### **380.1.1 POLICY**

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience children may have when their parent or caregiver is arrested. The California Department of Justice will endeavor to create a strong cooperative relationship with local, state and community-based child social services to ensure an effective, collaborative response that addresses the needs of affected children.

### **380.2 PROCEDURES DURING AN ARREST**

When encountering an arrest situation, agents should make reasonable attempts to determine if the arrestee is responsible for minor dependent children. In some cases this is obvious, such as when children are present. However, agents should inquire if the person has any other dependent minor children who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- a. Inquire about and confirm the location of any dependent minor children.
- b. Look for evidence of children. Agents should be mindful that some arrestees may conceal the fact that they have dependent children for fear their children may be taken from them.
- c. Inquire of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a dependent child.

Whenever possible, agents should take reasonable steps to accomplish the arrest of a parent or guardian out of the presence of his/her child. Removing children from the scene in advance of the arrest will generally ensure the best outcome for the child.

Whenever it is safe to do so, agents should allow the parent to assure children that they will be provided care. If this is not safe or if the demeanor of the in-custody parent suggests this

conversation would be nonproductive, the agent at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the children that both parent and children will receive appropriate care.

### **380.2.1 AFTER AN ARREST**

Whenever an arrest is made, the agent should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered, dependent minor children.

Agents should allow the arrestee reasonable time to arrange for care of minor children. Temporary placement of the child with family or friends may be appropriate. However, any decision should give priority to a childcare solution that is in the best interest of the child. In such cases the following guidelines should be followed:

- a. Allow the person reasonable time to arrange for the care of minor children with a responsible party, as appropriate.
  1. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), agents should respect the parent's judgment regarding arrangements for child care. It is generally best if the child remains with relatives or family friends the child knows and trusts. Consideration regarding the child's familiarity with the surroundings, comfort, emotional state and safety should be paramount.
  2. Except when a court order exists limiting contact, the agent should attempt to locate and place dependent children with the non-arrested parent or guardian.
- b. Provide for the immediate supervision of minor children until an appropriate caregiver arrives.
- c. Notify Child Protective Services (CPS) if appropriate, including but not limited to whenever the agent has reasonable cause to believe minor children are in immediate danger of physical and/or sexual abuse or are in a dangerous environment.
  1. In the event minor children are referred to the care of CPS, the person(s) from whose custody the children were removed shall not have the authority to determine where the children will be temporarily placed. This placement shall be determined by CPS personnel.
  2. If the minor children were discovered in danger, agents shall ensure that both CPS and local district attorney personnel are provided with the appropriate documentation to support child endangerment charges.

3. In all cases where minor children may have been exposed to toxic chemicals, agents shall advise CPS personnel of the possible exposure and request that CPS arrange a medical evaluation of each child as soon as possible.

- d. Notify the field supervisor or SAC of the disposition of minor children.

If children are at school or at a known location outside the household at the time of arrest, the arresting agent should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the parent's arrest and of the arrangements being made for the care of the arrestee's children, and then record the result of such actions in the associated report.

### **380.2.2 DURING THE BOOKING PROCESS**

During the booking process the arrestee shall be allowed to make additional free local phone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any minor dependent child. These phone calls shall be given immediately upon request or as soon as practicable and are in addition to any other phone calls allowed by law (Penal Code § 851.5(c)).

### **380.2.3 REPORTING**

For all arrests where children are present or living in the household, the reporting employee will include information about the children, including names, gender, age and how they were placed. The agent shall document, by written report, photography and, if possible, video, any neglect and/or abusive circumstances to which the minor children have been exposed, including the proximity and accessibility of drugs, drug paraphernalia, weapons, and/or sexually explicit material.

In all cases where minor children are found in a dangerous environment, the SAS shall ensure that agent collect and document data on resident minor children on a Care of Minor Fact Sheet (DLE 203) form, and that the completed DLE 203 form is forwarded to the SAC at BI Headquarters within ten (10) working days of finding minor children in a dangerous environment.

### **380.3 CHILD WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any dependent minor children, the handling agent should consider taking children into protective custody and placing them with the appropriate county child welfare service or other department-approved social service (Welfare and Institutions Code § 305).



Only when other reasonable options are exhausted should a child be transported to the bureau's facility, transported in an agent's vehicle or local agency's marked patrol car, or taken into formal protective custody.

Under no circumstances should a child be left unattended or without appropriate care.

### **380.4 TRAINING**

The Training Officer is responsible to ensure that all personnel of this department who may be involved in arrests affecting children participate, on a timely basis, in a POST-approved course on effective child safety when a parent or guardian is arrested (Penal Code § 13517.7). Training information shall be entered into the employee's ATRS.

## **382 Service Animals**

### **382.1 PURPOSE AND SCOPE**

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The California Department of Justice recognizes this need and is committed to making reasonable modifications to its policies, practices, and procedures in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

### **382.2 SERVICE ANIMALS**

The ADA defines a service animal as any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the owner's disability (28 CFR 35.104).

California expands the definition of a service animal to include other animals that are individually trained to provide assistance to an individual with a disability (Healthy and Safety Code § 113903).

#### **382.2.1 USE OF SERVICE ANIMALS**

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

The following examples are some of the ways service animals may be used to provide assistance:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with Traumatic brain injury to locate misplaced items or follow daily routines.

### **382.3 EMPLOYEE RESPONSIBILITIES**

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the California Department of Justice affords to all members of the public.

If an animal exhibits vicious behavior, poses a direct threat to the health of others or unreasonably disrupts or interferes with normal business operations the employee may direct the partner/handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the partner/handler takes prompt, effective action to control the animal. Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities and members of this department are expected to provide all services as are reasonably available to the individual with the disability.

If it is apparent or if the employee is aware the animal is a service animal, the handler/partner should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the agent should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task the animal meets the definition of a service animal and no further question as to the animal's status should be asked. The person should not be asked questions about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

Service animals are not pets. Employees should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

If the partner/handler should be taken into custody, the local law enforcement agency having jurisdiction shall take charge of the service animal.

### **382.4 INQUIRIES AND COMPLAINTS**

Under the Americans with Disabilities Act, people with disabilities have the right to be accompanied by service animals in all public areas and the California Department of Justice considers interference with or denial of this right by any member of this Department to be a

serious violation of this policy. Complaints alleging violations of this policy against any department employee will be promptly investigated and should be referred to the PSG.

## **383 Honor Guard**

### **383.1 PURPOSE AND SCOPE**

The mission of the Honor Guard is to provide a visible, uniformed representation that is capable of performing ceremonial functions for the Division.

#### **383.1.1 ESTABLISHMENT**

In 1999, the DLE acknowledged the need for visual recognition of employees at special functions, including funerals, memorial ceremonies, academy graduations, recruiting fairs, and other functions deemed significant by DLE and the Attorney General.

In 2001, the Director presented the DLE Honor Guard to the California Attorney General, formally placing the ceremonial unit into service.

#### **383.1.2 COMPOSITION**

The uniformed Honor Guard consists of SAs and SASs assigned from various regional offices throughout the state. The maximum number of members shall be at the discretion of the Director, and is based on current and anticipated demand for Honor Guard services during formal and informal deployments. The Honor Guard consists of (1) Honor Guard Executive Liaison to the Director, (1) Honor Guard Commander, (2) Honor Guard Adjutants, (2) Team Leaders, (2) Assistant Team Leaders, and general Honor Guard membership.

#### **383.1.3 SELECTION**

When the opportunity is advertised, those SAs and SASs interested in becoming a member of the Honor Guard shall submit memoranda and resumes requesting assignment to the Honor Guard via the chain of command through their Bureau Chief to the Honor Guard Selection Committee. Each level of the chain of command may endorse the applicant's suitability to serve as a member of the Honor Guard. Whether endorsed at each level or not, all memorandums shall be forwarded to the Selection Committee. The Selection Committee will review the memorandums and make recommendations to the Director as to the suitability of each applicant. The Director shall make the final decision as to who is selected to be a member of the Honor Guard. The Selection Committee shall consist of the Honor Guard Executive Liaison, Honor Guard Commander, Honor Guard Adjutants, and one Team Leader or Assistant Team Leader.

There is a minimum mandatory three-year commitment for those individuals selected to serve on the Honor Guard. Depending on new interest and the naturally occurring rotation out of the Honor Guard (retirements, promotions, etc.), there may be a maximum term limit initiated at a later date.

SASs and SAs requesting assignment to the Honor Guard shall present a general appearance which projects a favorable image on behalf of the Division. Honor Guard members shall be able to conform to military type grooming standards as defined in the Honor Guard Manual when called upon to represent DOJ, be in good physical condition, and maintain a uniform and accouterments in excellent condition. The applicant shall be an example to others in regard to their honor, service, integrity, teamwork, and excellence; therefore, the applicant shall not be the subject of a pending disciplinary investigation. Further, for a period including the past three years, the applicant shall have received a minimum rating of "standard" in each of the Qualification Factors included in the Report of Performance for Probationary Employees and/or a minimum rating of "standard" in each of the Critical Tasks included in the Special Agent, Range A, B, and C Performance Report and/or a minimum of "standard" in each of the Critical Tasks in the SAS Performance Report.

Failing to maintain a favorable general appearance, failing to work cohesively within the Honor Guard, partaking in any activity which may bring discredit to DLE, and failing to maintain standard performance levels as outlined above are all grounds for suspension and/or termination from the Honor Guard. Any formal disciplinary action or informal corrective action taken by the department may be grounds for suspension and/or termination from the Honor Guard. Informal corrective action includes a corrective interview, corrective memorandum, or being placed on a work improvement plan to correct a job deficiency. Formal discipline includes a formal letter of reprimand, suspension without pay, reduction of pay within the class, or demotion to a lower class. The decision to suspend and/or terminate a member from the Honor Guard shall be made by the Director.

### **383.2 DEPLOYMENT**

Honor Guard deployment is based on the type of function in need of DLE representation. All deployments require approval by the Director. A formal deployment shall occur when an active member of the DOJ is killed in the performance of his/her duties. A formal deployment shall consist of sufficient Honor Guard personnel, as determined by the Honor Guard Commander, to fulfill the requested mission. All other requests for Honor Guard participation are considered informal, unless authorized by the Director. An informal deployment shall consist of a minimum of two Honor Guard members.

All requests for deployment must be submitted through the Honor Guard Executive Liaison, Honor Guard Commander, or Honor Guard Adjutants.

### **383.3 MISSIONS**

The Honor Guard is capable of completing the following missions (below are the minimum/maximum numbers of Honor Guard members required for each mission):

- Color Guard (4 to 6)

- Flag presentations (4 to 6)
- Pallbearers (6 to 7)
- Gun salutes (7 to 8)
- Escorts (2 to 8)
- Ceremonial Presentation/Memorial Services - Funerals, California Peace Officer Memorial, National Peace Officer Memorial, etc (2 to 20)
- California Attorney General's Annual Awards Ceremony (2 to 20)
- Academy graduations (5 to 6)
- Job Recruitment Fairs (2 to 6)
- Civic events and State affairs (2 to 20)
- Other official functions (2 to 20)
- Funerals - Line of Duty Death (18 to 20)

DLE representation at funeral services is a desirable manner of expressing respect and bereavement for the decedent and extending sympathy toward the surviving family and close associates. The Adjutant to the Director will be the liaison between the Division and the family in order to coordinate information and services.

When an active member (sworn or non-sworn) of DOJ dies, and the decedent's family requests DLE's presence, a formal deployment may be authorized at the direction of the Director.

When a retired member (sworn or non-sworn) of DOJ dies, and the decedent's family requests DLE assistance, an informal deployment may be authorized. Such a request shall be processed through the Honor Guard Commander. A formal deployment may occur with authorization from the Director.

When an allied law enforcement officer dies, the SAC of the regional office serving the area where the officer died may request an informal deployment through the Honor Guard Commander. The members of the Honor Guard shall preassemble with the plain clothes contingent of DOJ personnel at a predetermined location. From this assembly point, the entire group shall proceed to the funeral/memorial location.

### **383.4 TRAINING**

All members shall train together bi-annually at a location convenient for DOJ and Honor Guard members. The bi-annual training shall last for no longer than 16 hours.

Additionally, the North and South teams shall train individually on a bi-monthly basis. The bi-monthly training shall last no longer than four hours.

### **383.5 UNIFORMS**

One complete uniform and accouterments shall be issued to each member of the Honor Guard Detail. Members shall not make any changes or additions to the uniform and/or accouterments. Maintenance of the uniform and accouterments is the responsibility of each team member. Uniforms and accouterments shall be maintained in impeccable condition. Dry cleaning costs can be reimbursed through the Travel Expense Claim process. A receipt shall accompany the claim.

### **383.6 TRANSFERS**

In the event that an Honor Guard member transfers to an area where there are no Honor Guard member vacancies, the member may be required to resign his/her position and turn in his/her uniform, accouterments, and all other equipment to the Honor Guard Commander. In the event that an Honor Guard member transfers to another Division, a mutual agreement shall be sought to retain the member's services. The agreement shall be between the Director and the director of the division to which the member is transferring.



## **384 Volunteer Program**

### **384.1 PURPOSE AND SCOPE**

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn agents and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

Refer to DOJAM §§ 062111-062118 for the Department's complete Volunteer Services policy.

**385 Not subject to disclosure due to agent safety concerns**

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## **386 Off-Duty Law Enforcement Actions**

### **386.1 PURPOSE AND SCOPE**

The decision to become involved in a law enforcement action when off-duty can place an agent as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for agents of the California Department of Justice with respect to taking law enforcement action while off-duty.

### **386.2 POLICY**

Initiating law enforcement action while off-duty is generally discouraged. Agents should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Agents are not expected to place themselves in unreasonable peril. However, any agent of this department who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, agents should first consider reporting and monitoring the activity and only take direct action as a last resort.

### **386.3 FIREARMS**

Agents of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in Policies 312 (Firearms) and 432 (Shoulder Weapons), as appropriate. When carrying firearms while off-duty, agents shall also carry their Department-issued badge and identification.

Agents should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any agent who has consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect the agent's senses or judgment.

### **386.4 DECISION TO INTERVENE**

There is no legal requirement for off-duty agents to take law enforcement action. However, should agents decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

- a. The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- b. The inability to communicate with responding units.
- c. The lack of equipment, such as handcuffs, OC or baton.
- d. The lack of cover.
- e. The potential for increased risk to bystanders if the off-duty agent were to intervene.
- f. Unfamiliarity with the surroundings.
- g. The potential for the off-duty agent to be misidentified by other peace officers or members of the public.

Agents should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

#### **386.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary, the agent should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty agent is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the agent should loudly and repeatedly identify him/herself as an agent of the California Department of Justice until acknowledged. Official identification should also be displayed.

#### **386.4.2 INCIDENTS OF PERSONAL INTEREST**

Agents should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances agents should call the responsible agency to handle the matter.

#### **386.4.3 CIVILIAN RESPONSIBILITIES**

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

### **386.4.5 REPORTING**

Any off-duty agent who engages in any law enforcement activity, regardless of jurisdiction, shall notify the SAC via the chain of command as soon as practicable. The SAC shall determine whether a report should be filed by the employee.

Agents should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

## 402 Racial/Bias Based Profiling

### 402.1 PURPOSE AND SCOPE

Racial/biased policing undermines legitimate law enforcement efforts, alienates community members and fosters community distrust. The California Department of Justice strives to provide law enforcement services to our community with due regard to the racial and cultural differences of those we serve. It shall be the policy and practice of this department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group(s) of individuals because of their race, ethnicity, national origin, gender, sexual orientation/identity, religion, socioeconomic status and/or age.

### 402.2 DEFINITION

Racial/bias-based profiling, for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped (Penal Code § 13519.4(e)). No member of this department will engage in any enforcement activity that is based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being investigated.

### 402.3 POLICY

Personnel shall not consider race, ethnicity, national origin, gender, sexual orientation/identity, religion, socioeconomic status and/or age in carrying out law enforcement activities, except when seeking one or more specific persons who have been identified or described in part by any of the above listed characteristics. In those circumstances, personnel may rely on these characteristics only in combination with other appropriate factors.

It is biased policing if an agent's decisions or actions are based on the fact that the individual's demographics (e.g., race, income) are different from the demographics of the majority of those who reside, work, conduct business or otherwise frequent the area in which the individual is observed.

The practice of racial/bias-based profiling is illegal and will not be tolerated by this department (Penal Code § 13519.4(f)).

- a. It is the responsibility of every member of this department to prevent, report, and respond appropriately to discriminatory or biased practices.

- b. Every member of this department engaging in any law enforcement activity shall be prepared to articulate sufficient reasonable suspicion to justify that activity independent of the individual's race, ethnicity, national origin, gender, sexual orientation/identity, religion, socioeconomic status and/or age.
  1. To the extent that written documentation would otherwise be completed (e.g., arrest report), the involved agent should include those facts giving rise to the agent's reasonable suspicion or probable cause for the contact.
  2. Nothing in this policy shall require any agent to prepare documentation of a contact that would not otherwise involve such reporting.
  3. While the practice of racial/bias-based profiling is strictly prohibited, it is recognized that race, ethnicity, national origin, gender, sexual orientation/identity, religion, socioeconomic status and/or age may be legitimately considered by an agent in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description includes race in addition to other descriptive factors, such as height, weight hair color, hair style, age, etc., and all those factors considered together tend to identify the perpetrator more clearly than race alone).

The California Department of Justice will investigate all complaints of alleged racial/bias-based profiling complaints against its members. Employees found to be in violation of this policy are subject to discipline in accordance with this department's disciplinary policy.

#### **402.4 TRAINING**

- a. Agents of this department attend initial POST-approved training on the subject of racial profiling during their basic academy.
- b. All members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of our community.
- c. Each member of this department undergoing initial POST-approved training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial and cultural trends (Penal Code §13519.4(i)).
  1. DOJ's racial profiling refresher course is presented in the form of a two-hour interactive DVD developed by POST. Copies of the DVD are issued to each regional office training coordinator.
  2. The OD will assign the refresher course to all agents every five years via a memorandum to the Bureau Chiefs. In order to receive credit from POST and comply

with POST regulations, agents must complete the course and their training coordinators must submit completed POST rosters to the ATC by the date specified in the memorandum. The course shall be entered into each agent's ATRS and training file by the respective training coordinator.



## **405 Enforcement Operations**

### **405.1 PURPOSE AND SCOPE**

This policy sets forth procedures applicable to field enforcement operations such as service of search or arrest warrants, surveillance, and undercover operations. These procedures are intended to ensure officer safety and the success of the operations.

### **405.2 OPERATION PLANS**

Prior to conducting any planned field enforcement operation, the SAS/TFC will ensure that an operation plan is completed and distributed to all participating personnel and the radio dispatcher. In the case of ongoing surveillance operations, an operation plan will be prepared each day of the surveillance, thereby ensuring that changes in personnel and circumstances are documented. The SAS/TFC shall review, sign and date the operation plan prior to the operation. The operation plan should include:

- Case agent's name
- Investigation number
- Type of investigation (undercover buy, surveillance, search warrant, etc.)
- List of involved personnel, radio numbers, agencies, and vehicle assignments
- Suspect's name and description
- Location of operation
- Suspect's vehicle (make, model, color, and license number)
- Description of undercover officer (including vehicle and license number)
- Arrest signals (visual and verbal)
- Radio frequency and channel
- Special problems or considerations (weapons, fortifications, dogs, history of violence, etc.)
- Special instructions
- Maps and/or sketches

- Required equipment
- Location of nearest trauma center and/or hospital, with directions and map
- Phone numbers of local law enforcement agencies

### **405.2.1 OPERATION PLAN FILE**

Each regional office shall maintain a file entitled "Operation Plans." At the conclusion of each field operation for which an operation plan is prepared, a complete copy of the operation plan shall be placed in the file. Operation plans shall be arranged in chronological order, then by case number, to easily cross-reference them to investigation files. The purge schedule for operation plans is the same as for investigation files.

### **405.3 PRE-OPERATION BRIEFING**

Prior to any planned field enforcement actions, a briefing shall be conducted by the SAS, case agent, and/or local officer having thorough knowledge of the case, with all participating agents and officers.

- a. This briefing shall include a review of the operation plan, assignments of duties, thorough identification and description of suspects and premises, a reading of the search warrant (if any), and identification of all agents and/or officers who will participate in the operation. Photographs of suspects and premises, when available, shall be distributed.
- b. If the plan requires entry of a premises for the purpose of serving an arrest or search warrant, participating personnel shall be reminded that a "knock and notice" is required prior to entering the premises. One person shall be assigned to document the facts relating to the entry. This includes, but is not limited to the name of the agent who performed the "knock and notice," the exact words that were spoken by the agent, the amount of time that elapsed before the door was opened (by the occupant(s) or by force), and, if applicable, any exigent circumstances that created the need to immediately force open the door.
- c. If patrol units are to be used in security or back-up roles, those officers shall also be briefed, in the field if necessary, so that they are aware of exactly what is taking place and of the identity of the agents and officers who are involved.
- d. The reporting agent shall document the following in the investigation report:
  1. The time and date the briefing was held and the names and agencies of all persons present.

2. The facts relating to entry of a premises (see Section 344).

#### **405.4 LOCAL AGENCY OFFICER**

If the operation involves service of a search or arrest warrant, a uniformed officer from the local agency having jurisdiction should be present during the service of the warrant for liaison purposes.

#### **405.5 DEBRIEFING**

A debriefing shall be conducted following the conclusion of every field enforcement operation. All personnel who participated in the operation shall be present for the debriefing, during which any problems and safety issues that occurred during the operation shall be discussed.

#### **405.6 PARTICIPATION IN JOINT ENFORCEMENT OPERATIONS**

Agents participating in joint enforcement operations with other law enforcement agencies shall at all times conduct themselves in compliance with Department and Division orders, rules, and regulations.

##### **405.6.1 WITHDRAWAL FROM JOINT ENFORCEMENT OPERATIONS**

If agents, while working with other law enforcement agencies, find that officers are conducting themselves in a manner or performing their duties in conflict with this department's orders, rules or regulations, they shall, whenever possible, notify an SAS of the conflict before continuing to participate in the assignment. If unable to contact an SAS, the senior agent at the scene may terminate DLE's participation.

Within 24 hours of withdrawal from a joint enforcement operation, the responsible agent shall submit a memorandum to the SAC via the SAS detailing the circumstances that led to termination of DLE's involvement.

## **406 Crime & Disaster Scene Integrity**

### **406.1 PURPOSE AND SCOPE**

The protection and integrity of a crime scene is of the utmost importance for the successful apprehension of criminals and successful prosecution. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

### **406.2 CRIME SCENE RESPONSIBILITY**

The first agent at the scene of a crime or major incident is generally responsible for taking reasonable efforts to preserve the scene. Agents shall also consider officer safety and public safety, including reasonable efforts to render medical aid to any obviously injured parties. Once an agent has assumed or been assigned to maintain the integrity of the crime/disaster scene, the agent shall continue to do so until he/she is relieved by a supervisor or the law enforcement agency having jurisdiction in the area.

#### **406.2.1 FIRST RESPONDER CONSIDERATIONS**

The following list generally describes the steps which the first responder should reasonably attempt to take at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation, the availability of resources, capacity of personnel and totality of each circumstance:

- a. Ensure no suspects are still in the area.
- b. Broadcast emergency information, including all requests for additional assistance.
- c. Provide first aid to injured parties if it can be done safely.
- d. Evacuate the location as required.
- e. Secure the inner and outer perimeter if needed.
- f. Protect items of apparent evidentiary value.
- g. Identify potential witnesses.
- h. Start a chronological log noting critical times and personnel allowed access.

## **406.3 SEARCHES AT CRIME OR DISASTER SCENES**

Agents arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims and determine if suspects are present and continue to pose a threat. Once agents are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Agents should thereafter secure the scene and conduct no further search until proper authority for the search is obtained.

### **406.3.1 CONSENT**

Agents should obtain consent to search from authorized individuals where possible. However, in the case of serious crimes or major investigations, it may be prudent to obtain a search warrant. Consent may be sought even in cases where a search warrant has been granted.

## **410 Ride-Along Policy**

### **410.1 PURPOSE AND SCOPE**

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

#### **410.1.1 ELIGIBILITY**

The California Department of Justice Ride-Along Program is offered to residents, students and those employed within the State. Every attempt will be made to accommodate interested persons; however, any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

#### **410.1.2 AVAILABILITY**

The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Director, Bureau Chief, or SAC.

### **410.2 PROCEDURE TO REQUEST A RIDE ALONG**

Generally, ride-along requests will be scheduled by the SAS. The participant will complete a Waiver of Liability form (BNE 29). Information requested will include a valid ID or California driver's license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the BNE 29.

The SAS will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective SAC as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

#### **410.2.1 PROGRAM REQUIREMENTS**

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Chaplains, Reserves, bureau applicants, and all others with approval of the SAC.

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the agent's vehicle at a given time.

#### **410.2.3 PEACE OFFICER RIDE-ALONGS**

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty agents without the expressed consent of the SAC. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

#### **410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK**

All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the California Department of Justice) (CLETS Policies, Practices and Procedures Manual § 1.6.1.D.3.).

#### **410.3 AGENT'S RESPONSIBILITY**

Agents shall consider the safety of the ride-along at all times. Agents should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The base station operator or agent's supervisor will be advised of the situation and, as soon as practical, have another bureau unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The SAS is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the BNE 29 form shall be returned to the SAS with any comments offered by the agent. The completed BNE 29 form shall be retained by the regional office for three years.

#### **410.4 CONTROL OF RIDE-ALONG**

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

- a. The ride-along will follow the directions of the agent.
- b. The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any bureau equipment.
- c. The ride-along may terminate the ride at any time and the agent may return the observer to their home or to the station if the ride-along interferes with the performance of the agent's duties.
- d. Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.
- e. Agents will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen.
- f. Under no circumstance shall a civilian ride-along be permitted to enter a private residence with an agent without the expressed consent of the resident or other authorized person.



## **412 Hazardous Material Response**

### **412.1 PURPOSE AND SCOPE**

Hazardous materials present a potential harm to employees resulting from their exposure. Nothing in this policy is intended to supersede any component of the BFS Quality Management System.

#### **412.1.1 HAZARDOUS MATERIAL DEFINED**

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

### **412.2 HAZARDOUS MATERIAL RESPONSE**

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- a. Attempt to identify type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from person transporting).
- b. Notify the Fire Department.
- c. Provide first-aid for injured parties if it can be done safely and without contamination.
- d. Begin evacuation of immediate area and surrounding areas dependent on substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- e. Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 10215).
- f. Notify the Department of Toxic Substances Control. This is mandatory when comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

## **412.3 REPORTING EXPOSURE(S)**

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to the Bureau Chief. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness as provided in DOJAM § 06800 et seq. in addition to a crime report or incident report.

### **412.3.1 SUPERVISOR RESPONSIBILITY**

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Fire Department.

## **414 Hostages and Barricaded Suspects**

### **414.1 PURPOSE AND SCOPE**

Hostage situations and barricaded suspects present unique problems for agencies. The protection of the public and law enforcement personnel is of the utmost importance. Proper planning and training will tend to reduce the risks involved with these incidents.

#### **414.1.1 DEFINITIONS**

**Hostage** - A person held by one party in a conflict as security so that specified terms will be met by the opposing party.

**Barricaded Suspect** - A person who takes a position of cover or concealment or maintains a position in a structure and who resists capture by law enforcement personnel. A barricaded suspect may be armed or suspected of being armed.

### **414.2 HOSTAGE NEGOTIATIONS**

Promises of immunity or leniency and payment of ransom demands are rarely effective and will generally not be offered to barricaded suspects. Trained hostage negotiators, however, will be permitted to exercise flexibility in each situation based upon the circumstances presented and consistent with their training. The local, state or federal law enforcement agency having jurisdiction in the location of the hostage situation shall take the lead in the negotiations.

Personnel involved in barricaded/hostage situations are urged to exercise patience and extreme caution. The use of deadly force against any armed suspect will be governed by Policy Manual § 300, with particular regard directed toward the safety of hostages.

### **414.3 FIRST RESPONDER RESPONSIBILITY**

Until the Incident Commander has been designated, the first agent on the scene of an actual or potential hostage/barricade situation shall consider the following:

- a. Attempt to avoid confrontation in favor of controlling and containing the situation until the arrival of trained personnel and/or trained hostage negotiation personnel
- b. Notification of tactical and hostage negotiation personnel
- c. Notification of appropriate persons within and outside the agency, such as command officers, dog handlers, or helicopter pilots
- d. Establishment of inner and outer perimeters

- e. Evacuation of bystanders and injured persons
- f. Establishment of central command post and appropriate chain of command
- g. Request for ambulance, rescue, fire and surveillance equipment
- h. Authorization for news media access and news media policy
- i. Pursuit/surveillance vehicles and control of travel routes

#### **414.4 REPORTING**

Unless otherwise relieved by a supervisor, the initial agent at the scene is responsible for completion of reports or coordination of reports for the hostage/barricade incident.

If the Critical Event Response Plan is implemented, the DLE Incident Commander shall prepare an After-Action Report summarizing the event.

## **416 Response to Bomb Calls**

### **416.1 PURPOSE AND SCOPE**

These guidelines have been prepared to assist agents in their initial response to incidents involving explosives, explosive devices, or explosion/bombing incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

### **416.2 FOUND EXPLOSIVES/SUSPECT DEVICES**

When an agent encounters a suspected explosive device, the following guidelines shall be followed:

- a. Call for assistance from the local agency bomb squad having jurisdiction at the location.
- b. No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- c. Secure the perimeter for a minimum of three hundred feet allowing for an entrance for support personnel.
- d. Relay as much initial information as possible to the SAC/SAS and local authorities without touching the device, including:
  1. The stated threat.
  2. How made.
  3. Exact comments.
  4. Time.
  5. Location.
  6. Full description (e.g., size, shape, markings) of the device in question.
- e. Do not touch or transport the device to any other location.
- f. Do not transmit on any equipment that produces radio frequency energy within 300 feet. This includes two-way radios, cell phones and other personal communication devices.

Consideration should be given to the possibility for evacuation if a device is located within a building.

- g. Secure a perimeter around the suspected device.
- h. Consideration for support personnel such as paramedics and Fire Department personnel.
- i. A search of the area should be conducted for secondary devices or other objects foreign to the area.
- j. Found explosive or military ordnance of any type should be handled only by the Bomb Squad.
- k. When in doubt, call for assistance from the Sheriff's Department Bomb Squad.

### **416.3 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations which may confront the responding agent. As in other catastrophic incidents, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds, or additional damage by resulting fires or unstable structures. Whether the explosion was the result of an accident or a criminal act, the responding agents should consider the following actions:

- Assess the scope of the incident, including the number of victims and extent of injuries.
- Assist with first aid (Fire Department has primary responsibility).
- Assist with evacuation of victims (Fire Department has primary responsibility).
- Identify and take appropriate precautions to mitigate scene hazards such as collapsed structures, bloodborne pathogens, hazardous materials and secondary explosive devices.
- Request additional resources as needed.
- Identify witnesses.
- Preserve evidence.

#### **416.3.1 NOTIFICATIONS**

When an explosion has occurred, the following people shall be notified as soon as practicable if their assistance is needed:

- a. Fire Department
- b. Local agency Bomb Squad
- c. Additional field agents (if requested by the local agency)
- d. Bureau Chief
- e. SAC
- f. DLE Incident Commander
- g. Bureau of Forensic Services, if necessary

### **416.3.2 CROWD CONTROL**

No one should be allowed free access to the scene unless they have a legitimate and authorized reason for being there.

### **416.3.3 SCENE OF INCIDENT**

As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could be extended for several hundred feet. Evidence may be imbedded in nearby structures or hanging in trees and bushes, etc.

## **416.4 BOMB THREATS RECEIVED AT A DOJ FACILITY**

This procedure shall be followed should a bomb threat call be received at a DOJ facility.

### **416.4.1 BOMB THREATS RECEIVED BY TELEPHONE**

The following questions should be asked if a call of a bomb threat is received at a DOJ facility:

- When is the bomb going to explode?
- Where is the bomb?
- What kind of bomb is it?
- What does it look like?
- Why did you place the bomb?

- Who are you? (to avoid possible termination of the call, this should be the last question asked)

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these five basic questions.

During this time, document the following:

- Time of the call
- Exact words of the person as accurately as possible
- Estimated age and gender of the caller
- Speech patterns and/or accents
- Background noises

If the incoming call is received at the facility on a recorded line, steps shall be taken to ensure that the recording is preserved in accordance with current division evidence procedures.

#### **416.4.2 RESPONSIBILITIES**

As soon as a bomb threat has been received, the SAC will be advised and fully informed of the details. The SAC will immediately notify the CHP, then direct and assign agents as required for coordinating a general building search or evacuation as he/she deems appropriate.



## **418 Mental Illness Commitments**

### **418.1 PURPOSE AND SCOPE**

The following procedures apply to contacts with Welfare and Institutions Code § 5150 detainees.

### **418.2 AUTHORITY**

Welfare and Institutions Code § 5150 provides:

"When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

"Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false."

Taking a person into custody under these provisions does not constitute an arrest.

### **418.5 CONFISCATION OF FIREARMS AND OTHER WEAPONS**

When an agent detains a person pursuant to Welfare and Institutions Code § 5150, the agent is required to confiscate all firearms and deadly weapons the person is found to own, possess, or control (Welfare and Institutions Code § 8102 (a)). A "deadly weapon" is any weapon prohibited under Penal Code § 12020 (Welfare and Institutions Code § 8102 (e)).

Penal Code § 1524 (a)(10) now provides grounds for obtaining a search warrant to seize the weapons. Exigent circumstances and consent would also provide exceptions to the warrant requirement so that the firearms and weapons could be seized immediately. (Refer to Chapter 3 of the *California Peace Officers Legal Sourcebook*, Policy Manual § 106.5.3.)

If the agent confiscates firearms or deadly weapons, the agent is required to notify the person of the procedure for the return of weapons, as provided in Welfare and Institutions Code § 8102. Whenever firearms are confiscated, the agent should issue a receipt and list the serial or identification on the firearms (Penal Code § 12028.7(a)).

## 422 Arrest or Detention of Foreign Nationals

### 422.1 PURPOSE AND SCOPE

Article 36 of the Vienna Convention on Consular Relations sets forth certain rights of foreign nationals from member countries when arrested, detained or imprisoned by law enforcement officials in this country. This section provides direction to agents when considering a physical arrest or detention of a foreign national. All Foreign Service personnel shall be treated with respect and courtesy, regardless of the level of established immunity. As noted herein, the United States is a party to several bilateral agreements that obligate authorities to notify the consulate upon the person's detention, regardless of whether the detained person requests that his/her consulate be notified. The list of specific countries that the United States is obligated to notify is listed on the U.S. Department of State website. Effective January 1, 2000, California adopted a consular notification statute based on the Vienna Convention requirements. In California, consular notification is mandated on every peace officer pursuant to Penal Code § 834c.

#### 422.1.1 DEFINITIONS

**Foreign National** - Anyone who is not a citizen of the United States (U.S.). A person with dual citizenship, U.S. and foreign, is not a foreign national.

**Immunity** - Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official "missions" (i.e., embassies, consulates, etc.) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad. Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the U.S. Department of State's Office of Foreign Missions (OFM) that illegal acts by Foreign Service personnel should always be pursued through proper channels. Additionally, the host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

### 422.2 ARREST OR DETENTION OF FOREIGN NATIONALS

Agents should take appropriate enforcement action for all violations observed, regardless of claims of diplomatic or consular immunity received from violators. A person shall not, however, be subjected to in-custody arrest when diplomatic or consular immunity is claimed by the individual or suspected by the agent, and the agent has verified or reasonably suspects that the claim of immunity is valid.

## **422.3 LEVELS OF IMMUNITY**

The specific degree of immunity afforded to Foreign Service personnel within the U.S. is directly related to their function and position in this country.

### **422.3.1 DIPLOMATIC AGENTS**

Diplomatic agents (e.g., ambassadors and United Nations representatives) are afforded the highest levels of immunity. They are exempt from arrest or detention and are immune from all criminal (and most civil) prosecution by the host state. The family members of diplomatic agents enjoy these same immunities. Currently there are no diplomatic agents permanently assigned to California; but they do occasionally visit the state.

### **422.3.2 CONSULAR OFFICERS**

Consular officers are the ranking members of consular posts who perform various formal functions on behalf of their own governments. Typical titles include consul general, consul, and vice consul. These officials are immune from arrest or detention, except pursuant to a felony warrant. They are only immune from criminal and civil prosecution arising from official acts. This official acts immunity must be raised as an affirmative defense in the court jurisdiction, and its validity is determined by the court. Under this defense, the prohibited act itself must have been performed as an official function. It is not sufficient that the consular agent was on-duty or in an official capacity at the time of the violation. The family members of consular officers generally enjoy no immunity, however, any family member who enjoys a higher level of immunity is issued an identification card by Department of State (DOS) enumerating any privileges or immunities on the back of the card. Examples are consular officers and family members from Russia or China.

There are approximately 600 consular officers in California, with most located in Los Angeles, San Francisco and San Diego.

### **422.3.3 HONORARY CONSULS**

Honorary consuls are part-time employees of the country they represent and are either permanent residents of the U.S. or U.S. nationals (unlike career consular officers, who are foreign nationals on temporary assignment to the U.S.). Honorary consuls may be arrested and detained; limited immunity for official acts may be available as a subsequent defense. Family members have no immunity. There are less than 100 honorary consuls in California.

## **422.4 IDENTIFICATION**

All diplomatic and consular personnel who are entitled to immunity are registered with the Department of State and are issued distinctive identification cards by the Department of State Protocol Office. These cards are the best means of identifying Foreign Service personnel. They include a photograph, identifying information, and, on the reverse side, a brief description of the bearer's immunity status. Unfortunately, these identification cards are not always promptly issued by the Department of State. In addition to the Department of State identification card, Foreign Service personnel should also have a driver license issued by the Department of State Diplomatic Motor Vehicle Office (DMVO), which in most circumstances replaces the operator's license issued by the state. Additionally they may have California credentials issued by the Governor's Office of Emergency Services (OES), Law Enforcement Division.

### **422.4.1 VEHICLE REGISTRATION**

Vehicles that are owned by foreign missions or Foreign Service personnel and their dependents are registered with the Department of State OFM and display distinctive red, white, and blue license plates. Vehicles assigned to diplomatic or consular officers will generally have license plates labels with the words "diplomat" or "consul." Vehicles owned by honorary consuls are not issued OFM license plates; but may have California license plates with an "honorary consul" label. Driver's identity or immunity status should not be presumed from the type of license plates displayed on the vehicle. The status of an OFM license plate should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state, if the agent has reason to question the legitimate possession of the license plate.

## **422.5 ENFORCEMENT PROCEDURES**

The following procedures provide a guideline for handling enforcement of foreign nationals:

### **422.5.1 CITABLE OFFENSES**

An enforcement document shall be issued at the scene for all violations warranting such action, regardless of the violator's immunity status. The issuance of a citation is not considered an arrest or detention under current Department of State guidelines. Whenever the equivalent of a notice to appear is issued to an immunity claimant, the following additional procedures shall be followed by the arresting agent:

- a. Local law enforcement agencies shall be utilized whenever possible to facilitate the citing and releasing of the claimant.
- b. Identification documents are to be requested of the claimant.

- c. The title and country represented by the claimant are to be recorded on the back of the agent's copy of the Notice to Appear for later reference. Do not include on the face of the notice to appear.
- d. The claimant shall be requested to sign the notice to appear. If the claimant refuses, the identity and immunity status of the individual shall be conclusively established.
- e. Verified diplomatic agents and consular officers, including staff and family members from countries with which the U.S. has special agreements, are not required to sign the Notice to Appear. The word "Refused" shall be entered in the signature box, and the violator shall be released.
- f. Verified consular staff members, excluding those from countries with which the U.S. has special agreements, are generally obligated to sign the Notice to Appear, but a signature shall not be required if their immunity status is uncertain.
- g. All other claimants are subject to the provisions of Vehicle Code § 40302(b) and policy and procedures outlined in this chapter.
- h. The violator shall be provided with the appropriate copy of the notice to appear.

**422.5.2 Not subject to disclosure due to agent safety concerns**

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## **422.6 TRAFFIC COLLISIONS**

Persons involved in traffic collisions who possess a Department of State OFM Diplomatic Driver License, issued by the DMVO, shall be referred to the CHP or appropriate local law enforcement agency.

### **422.6.1 VEHICLES**

Vehicles, which are owned by subjects with full immunity, may not be searched, stored, or impounded without the owner's permission. (Such permission may be assumed if the vehicle has been stolen.) These vehicles may, however, be towed the necessary distance to remove them from obstructing traffic or creating any other hazard.


### **422.6.2 REPORTS**

A photocopy of each report involving an identified diplomat and/or immunity claimant shall be forwarded to the office of the Director within 48 hours whether or not the claim is verified. The words "Immunity Claim" shall be marked on the photocopy, together with a notation of the claimant's title, country, and type of identification presented (if applicable). In addition to the report, a follow-up cover memorandum should be submitted if the violation was flagrant, if the claimant was uncooperative, or if there were any other unusual aspects of the enforcement contact that should be reported to the Department of State for further action. The SAC apprised of the incident/accident shall also send a copy of all documents and reports submitted by the investigating agent along with any supervisor's notes, materials and/or logs to the Director's office within 48 hours of the incident. The Director's office will check to ensure that notification of Department of State and all necessary follow-up occur.

## **422.7 FOREIGN NATIONALS WHO DO NOT CLAIM IMMUNITY**

These policies and procedures apply to foreign nationals who do not claim diplomatic or consular immunity.

Agents shall arrest foreign nationals only under the following circumstances:

- a. There is a valid warrant issued for the person's arrest.
- 



- b. There is probable cause to believe that the foreign national has violated a federal criminal law, a state law, or a local ordinance.
- c. Agents shall not arrest foreign nationals solely for alleged undocumented entry into the U.S. unless the undocumented entry is committed in the agent's presence.

After a lawful detention or criminal arrest, agents may detain foreign nationals solely for alleged undocumented presence in the U.S. if the U.S. Immigration and Customs Enforcement (ICE) is contacted and can respond to take custody within a reasonable time. Agents shall not arrest foreign nationals for undocumented presence. Federal courts have consistently held that undocumented presence is not a crime but a federal civil violation only enforceable by federal officers.

- Agents shall not stop or detain persons solely for determining immigration status.
- International treaty obligations provide for notification of foreign governments when foreign nationals are arrested or otherwise detained in the U.S.
- Whenever an agent arrests and incarcerates a foreign national or detains a foreign national for investigation for over two hours, the agent shall promptly advise the individual that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the agent shall begin the notification process.

#### **422.7.1 ARREST PROCEDURE**

Whenever an agent physically arrests or detains an individual for criminal investigation and the agent reasonably believes the person to be a foreign national, the agent shall inquire to determine the person's citizenship.

This procedure applies to detentions of more than two hours. An inquiry is not required if the individual is detained less than two hours for criminal investigation.

If the individual indicates that he/she is other than a U.S. citizen, the agent shall advise the individual that he/she has a right to have the nearest appropriate embassy or consulate notified of the arrest/detention.

If the individual requests such notification, the agent shall contact the Command Center as soon as practical and request the appropriate embassy/consulate be notified. Agents shall provide the Command Center with the following information concerning the individual:

- Country of citizenship.

- Full name of individual, including paternal and maternal surname if used.
- Date of birth or age.
- Current residence.
- Passport number, date of issuance, place of issuance.
- Time, date, place, location of incarceration/detention, and the 24-hour telephone number of the place of detention if different from the Department itself.
- Report number.

If the individual claims citizenship of one of the countries for which notification of the consulate/embassy is mandatory, agents shall provide the Command Center with the information above as soon as practicable, regardless of whether the individual desires the embassy/consulate to be notified. This procedure is critical because of treaty obligations with the particular countries. The list of countries and jurisdictions that require notification can be found on the U.S. Department of State website.

#### **422.7.2 DOCUMENTATION**

Agents shall document on the face page and in the narrative of the appropriate Investigation Report the date and time the Command Center was notified of the foreign national's arrest/detention and his/her claimed nationality. The Command Center shall fax a completed Consular and/or Embassy Notification of Arrest of Foreign National form (DLE 207) to the nearest appropriate foreign consulate or embassy. The operator shall retain the DLE 207 in the assigned file and, if the fax was unsuccessful, the operator shall notify the consulate or embassy by telephone. The Command Center shall notify the arresting/detaining agent when the notification has been made.

## **424 Rapid Deployment Team Policy**

### **424.1 PURPOSE AND SCOPE**

Violence in schools, workplaces and other locations by any individual or group of individuals presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding agents as they make decisions in these rapidly unfolding and tense situations.

### **424.2 POLICY**

The policy of this department in dealing with the crisis situation shall be:

- a. To obtain and maintain complete operative control of the incident.
- b. To explore every reasonably available source of intelligence regarding the circumstances, location, and suspect(s) in the incident.
- c. To attempt, by every means available, to attain any tactical advantage over the responsible individual(s).
- d. To attempt, whenever feasible, a negotiated surrender of the suspect(s) and release of the hostages through the expertise of the members of this department and others.
- e. When an emergency situation exists, neutralize the threat as rapidly as reasonably possible to minimize injury and loss of life.

Nothing in this policy shall preclude the use of necessary force, deadly or otherwise, by members of this department in protecting themselves or others from death or serious injury.

### **424.3 PROCEDURE**

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding agents should consider reasonable options to immediately eliminate the threat. Agents must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

When deciding on a course of action agents should consider:

- a. Whether sufficient personnel are available on-scene to advance on the suspect. Any advance on a suspect should be made using teams of two or more agents whenever reasonably possible.

- b. Whether individuals who are under imminent threat can be moved out of danger with reasonable safety.
- c. Whether the agents have the ability to effectively communicate with others in the field.
- d. Whether planned tactics can be effectively deployed.
- e. The availability of rifles, shotguns, shields, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.
- f. In a case of a barricaded suspect with no hostages and no immediate threat to others, agents should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).
- g. If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, the agent(s) should take immediate action, if reasonably possible, to stop the threat presented by the suspect while calling for additional assistance.

## **426 Police Activity in Other Jurisdictions**

### **426.1 PURPOSE AND SCOPE**

This policy provides general guidelines for reporting police activity while on or off-duty and occurring in other jurisdictions.

#### **426.1.1 ASSISTANCE TO OUTSIDE AGENCIES**

When an agent is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the SAC. If the request is of an emergency nature, the agent shall notify a supervisor as soon as practical.

#### **426.1.2 LAW ENFORCEMENT ACTIVITY IN LOCAL JURISDICTIONS**

A local law enforcement agency must be notified in advance of an agent conducting a tactical enforcement operation within the agency's jurisdiction. Notification will be made by the SAC or designee, except under the following circumstances:

- a. If the nature of the information indicates that notification at the field enforcement level of a local agency may compromise an investigation or pose a threat to the agent's safety, the responsible SAC will notify the local agency's chief administrator of the circumstances and request the chief administrator's cooperation in maintaining the confidentiality of the investigation at the field level.
- b. In the event that reliable information is received implicating a local agency's department head in illegal activity which may cause the investigation or agent's undercover operation or safety to be compromised, the SAC may grant an authorization to exempt personnel attached to the investigation from this notification policy. In this situation, the SAC shall notify their Bureau Chief immediately of the circumstances justifying this exemption prior to initiating enforcement action or in any way continuing the investigation.
- c. In major metropolitan areas where it is possible for the activities associated with an investigation to cross multiple local agency areas of responsibility in a short time, such as a covert surveillance or pursuit, local agency notification need not be made prior to investigative activity if such notification would hamper or unnecessarily delay the investigative activity of the agent.
- d. In addition, the mere passage of the suspect or agent through numerous jurisdictions while en route to the primary locale of an investigation or arrest does not mandate the need for notification of the local agencies except those in which the above-listed

investigative activities are anticipated. Those agency jurisdictions wherein the primary case activity will occur shall be notified. However, during a multi-jurisdictional case, agents should notify the appropriate war room, watch center or Narcotic Information Network (NIN) in accordance with established policy.

At the conclusion of the enforcement activity, the SAC or designee will make an exit notification to advise the local agency of the event's termination. Should the enforcement activity result in a noteworthy incident (large seizure, arrest of numerous persons, etc.), this information should likewise be conveyed to the local agency.

## **426.2 OVERLAPPING INVESTIGATIONS**

If, during an investigation, it is learned that a federal, state, or local law enforcement agency is working on the same case or is using the same undercover operator that is being used by the Division, the agent shall immediately report the information to his/her SAS, who shall notify the SAC/TFC.

The SAC/TFC or designee shall contact the proper official in charge of the federal, state, or local law enforcement investigation and make whatever arrangements are necessary, either to work on the case as a joint investigation, arrange for one of the agencies to withdraw from the investigation, or enter into any other appropriate working relationship.

## **426.3 INVESTIGATIONS IN OTHER AREAS OF RESPONSIBILITY**

Whenever, in the best interests of an investigation, information or investigative action pertains to a geographic area which is the responsibility of another regional office, the information shall be forwarded to the appropriate SAC or designee.

If the regional office initiating the investigation elects to maintain control of the investigation and follow it through into the jurisdiction of another regional office, the initiating office shall be responsible for sending a sufficient number of personnel to complete the investigation. This includes the preparation of search warrants, arrests, investigative reports, handling of evidence, and filing of complaints.

The initiating regional office SAC or designee shall communicate with the SAC or designee of the regional office of jurisdiction and coordinate the activities of the investigation. If the regional office of jurisdiction supplies the majority of the resources, that office shall assume responsibility and control of the investigation. If this occurs, the agents traveling to the area of the regional office with jurisdiction shall report to and be under the supervision of the SAC of that area unless other arrangements have been made between the SACs involved.

## **427 Operating in a Foreign Country**

### **427.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide specific direction to employees with an operational need to travel outside of the United States.

### **427.2 POLICY**

No employee, with the exception of members of the BI Foreign Prosecution and Law Enforcement Unit (FPLEU), shall enter a foreign country to conduct official business without prior written notification to and approval from his/her Bureau Chief or designee and the Director or designee. TFCs shall not permit non-DOJ members of their task force to enter a foreign country on official task force business without the prior approval of the Director, the Bureau Chief, and the head of the member's parent agency.

Due to the sensitivity of working in a foreign country, including Mexico, and the potential for violating laws and/or protocols of which the employee may be unaware, it is imperative that the FPLEU be consulted before any employee travels abroad. The FPLEU shall be notified by the employee prior to each entry into a foreign country on official business unless an exemption is obtained from the Director or designee. The assistance of the FPLEU should be utilized as appropriate when planning or implementing official activities in a foreign country.

FPLEU personnel shall notify their Bureau Chief, via the chain of command, before each entry into a foreign country to conduct official business.

### **427.3 REQUEST FOR APPROVAL**

All requests to enter a foreign country to conduct official business shall be submitted in writing and routed via the chain of command to the Bureau Chief, who shall forward the requests to the Director or designee. The requests shall include the following information:

- Purpose of travel
- Name(s) of the person(s) to be contacted
- Specific investigative activity to be performed
- Length of the visit
- Investigation or file number, if applicable

If obtaining prior written approval from the Director, the Bureau Chief, and/or the parent agency head is not possible, verbal approval may be obtained from the Bureau Chief, the head of the parent agency, or their respective designee. The date of verbal approval and the name of the individual(s) approving each trip shall be documented in the relevant investigative file within five (5) business days of the traveling individual's return to the United States.

#### **427.4 NOTIFICATION TO THE LA CLEAR**

When any Department employee, including the agents assigned to the FPLEU, or task force member has received approval to travel to a foreign country, he/she shall notify the LA CLEAR of the date and purpose of the upcoming trip, the individual(s) and/or agency(ies) to be visited, the name(s) of any person(s) traveling with him/her, and the date and time the employee anticipates returning or going off duty.

The LA CLEAR will complete the required "Foreign Travel Notification" form (FTN) and electronically transmit the completed FTN to the Bureau Chief or designee. The LA CLEAR will monitor each agent's progress and close the notification when the agent has reported.

#### **427.5 OVERDUE AND MISSING AGENTS**

An agent is considered "overdue" when he/she fails to contact the LA CLEAR at the time specified by the agent in his/her pre-travel notification. If that occurs, the LA CLEAR shall attempt to contact the agent via phone. If the LA CLEAR is unable to make contact with the agent, the LA CLEAR shall notify the FPLEU SAC or the regional office SAC. The SAC shall determine if the agent's status should be changed.

An "overdue" agent is determined to be "missing" when all known means of contacting him/her have been attempted with negative results or when the Bureau Chief, Assistant Bureau Chief or SAC orders a change of status.

- a. If the agent's status changes from "overdue" to "missing," the appropriate SAC or designee shall notify the bureau's chain of command.
  1. The FPLEU SAC or the regional office SAC shall make notification to the first available law enforcement international liaison unit, as well as the U.S. Marshal Service (USMS), Federal Bureau of Investigation (FBI), and the U.S. Embassy and Consulate of the country in question.
  2. If the agent is "missing" in the Republic of Mexico, utilizing the first available law enforcement liaison unit, USMS, and FBI, notify the 2nd Mexican Military Battalion Command, the Mexican Federal Attorney General's Office, and the Mexican Federal Preventive Police.



3. The FPLEU SAC or the regional office SAC shall either personally make these notifications or defer notification to the LA CLEAR. It is recommended that international liaison agencies make notifications to foreign missions (embassy or consulate) and Mexican law enforcement. In order to assist the Incident Commander, the IOC will maintain a contact list of all U.S. law enforcement liaison agencies.
- b. All information involving the LA CLEAR, such as “change of status” or the initiation of “agency notifications,” shall be documented by the LA CLEAR via the FTN computerized document.

### **427.5.1 COMMAND POST**

The LA CLEAR shall monitor the situation and act as the primary resource center during the operation. A field command post shall be set up at the regional office, the San Ysidro Port of Entry through the Customs and Border Patrol (CBP) liaison, or any other viable location. The FPLEU SAC or agency designee shall coordinate with the government in question any and all searches in that government’s territory.

### **427.5.2 AGENCY ROLES AND RESPONSIBILITIES**

- a. The first contacted international liaison unit is notified so that they may make immediate notification to all U.S. law enforcement agencies with international liaison units in California. The first contacted international liaison unit shall also initiate informal contact with foreign law enforcement.
- b. The USMS is notified because of its vast resources and assets in foreign countries. The USMS will also begin formal contact with the foreign country law enforcement or military.
- c. The FBI is notified in order to implement classified assets to assist in the return of missing personnel. The FBI is also present with resources in most foreign countries.
- d. The U.S. Embassy is notified in order to formally request assistance from the foreign country in question through diplomatic channels.
- e. The U.S. Consulate is the local contact representing the U.S. Embassy in the field of jurisdiction/operations. They may also be the point of contact for the U.S. Embassy.
- f. CBP is notified primarily to make official notification to all of its ports of entry along the southwest border to be on alert for the missing agent(s).
- g. Military Command is notified in order to receive the resources of the military throughout the region.

- h. Federal Police are notified to activate their assets throughout the country.
- i. The United States Border Patrol is notified due to their responsibility along the border outside of the established ports of entry.

**427.5.3 Not subject to disclosure due to agent safety concerns**

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**427.6 MEXICAN AUTO INSURANCE**

Division employees who travel to Mexico using State vehicles shall secure Mexican auto insurance. The DGS Office of Risk and Insurance Management (ORIM) can procure either annual or short-term Mexican auto insurance for State employees who are required to drive in Mexico. The FPLEU can assist with arranging for Mexican auto insurance when an employee gives notification of scheduled travel into Mexico.



## **428 Immigration Violations**

### **428.1 PURPOSE AND SCOPE**

The immigration status of individuals alone is generally not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of alien status. Confidence in this commitment will increase the effectiveness of the Department in protecting and serving the entire community.

### **428.2 DEPARTMENT POLICY**

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry. When assisting ICE at its specific request, or when suspected criminal violations are discovered as a result of inquiry or investigation based on probable cause originating from activities other than the isolated violations of Title 8, U.S.C., §§ 1304, 1324, 1325 and 1326, this department may assist in the enforcement of federal immigration laws.

### **428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS**

Persons wishing to report immigration violations should be referred to the local office of the U.S. Immigration and Customs Enforcement (ICE). The Employer Sanction Unit of ICE has primary jurisdiction for enforcement of Title 8, United States Code.

#### **428.3.1 BASIS FOR CONTACT**

Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention, or arrest.

#### **428.3.2 SWEEPS**

The California Department of Justice does not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, socioeconomic status, or other group.

The disposition of each contact (e.g., warning, citation, arrest), while discretionary in each case, should not be affected by such factors as race, ethnicity, age, gender, sexual orientation, religion or socioeconomic status.

### **428.3.3 ICE REQUEST FOR ASSISTANCE**

If a specific request is made by ICE or any other federal agency, this department will provide available support services.

Members of this department should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary basis or for officer safety. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity.

### **428.3.4 IDENTIFICATION**

Whenever any individual is reasonably suspected of a criminal violation (infraction, misdemeanor, or felony), the investigating agent should take reasonable steps to determine the person's identity through valid identification or other reliable sources.

### **428.3.5 ARREST**

If the agent intends to take enforcement action and the individual is unable to reasonably establish his/her true identity, the agent may take the person into custody on the suspected criminal violation (see Vehicle Code § 40302a, and Penal Code § 836, if pertinent to the circumstances). A field supervisor shall approve all such arrests.

### **428.3.6 BOOKING**

If the agent is unable to reasonably establish an arrestee's identity, the individual may, upon approval of a supervisor, be booked into jail for the suspected criminal violation and held for bail.

### **428.3.7 NOTIFICATION OF IMMIGRATION AND CUSTOMS ENFORCEMENT**

Whenever an agent has reason to believe that any person arrested for any offense listed in Health & Safety Code §11369 or any other felony may not be a citizen of the United States and the individual is not going to be booked into county jail, the arresting agent shall cause ICE to be notified for consideration of an immigration hold.

If an agent has an articulable belief that an individual taken into custody for any misdemeanor is an undocumented alien, and after he/she is formally booked there is no intention to transport to

the county jail, ICE may be informed by the arresting agent so that ICE may consider placing an immigration hold on the individual.

In making the determination whether to notify ICE in such circumstances, the agent should, in consultation with a supervisor, consider the totality of circumstances of each case, including, but not limited to:

- a. Seriousness of the offense
- b. Community safety
- c. Potential burden on ICE
- d. Impact on the immigrant community

Generally, agents will not need to notify ICE when booking arrestees at the county jail. Immigration officials routinely interview suspected undocumented aliens who are booked into the county jail on criminal charges and notification will be handled according to jail operation procedures.

#### **428.4 CONSIDERATIONS PRIOR TO REPORTING TO ICE**

The California Department of Justice is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any person. The decision to arrest shall be based upon those factors which establish probable cause and not on arbitrary aspects. Race, ethnicity, age, gender, sexual orientation, religion, and socioeconomic status alone are of no bearing on the decision to arrest.

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to deportation. Members should not attempt to determine the immigration status of crime victims and witnesses or take enforcement action against them absent exigent circumstances or reasonable cause to believe that a crime victim or witness is involved in violating criminal laws. Generally, if an agent suspects that a victim or witness is an undocumented immigrant, the agent need not report the person to ICE unless circumstances indicate such reporting is reasonably necessary.

Nothing in this policy is intended to restrict agents from exchanging legitimate law enforcement information with any other federal, state or local government entity (Title 8 U.S.C. §1373 and 8 U.S.C. § 1644).

##### **428.4.1 U-VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits to victims and witnesses of certain qualifying crimes (8 U.S.C. § 1101(a)(15)(U and T). A

declaration/certification for a U-Visa/T-Visa from the U.S. Citizenship and Immigration Services must be completed on the appropriate U.S. DHS Form supplements (I-918 or I-914) by law enforcement and must include information on how the individual can assist in a criminal investigation or prosecution in order for a U-Visa/T-Visa to be issued.

Any request for assistance in applying for U-Visa/T-Visa status should be forwarded in a timely fashion to the BI SAS assigned to supervise the handling of any related case. The BI SAS should do the following:

- a. Consult with the assigned agent to determine the current status of any related case and whether a supplemental report is warranted.
- b. Review the instructions for completing the declaration/certification if necessary. Instructions for completing Forms I-918/I-914 can be found on the U.S. DHS website.
- c. Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the declaration/certification has not already been completed and whether a declaration/certification is warranted.
- d. Address the request and complete the declaration/certification, if appropriate, in a timely manner.
- e. Ensure that any decision to complete or not complete the form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed certification in the case file.

#### **428.4.2 HUMAN TRAFFICKING T-VISA**

Agents and their supervisors who are assigned to investigate a case of human trafficking shall complete the above process and documents needed for a T-Visa application within 15 business days of the first encounter with the victim, whether or not it is requested by the victim (Penal Code § 236.5).

## **429 Undercover Contact with Law Enforcement**

### **429.1 PURPOSE AND SCOPE**

Because undercover agents are not readily identifiable as law enforcement officers, unplanned contact with uniformed personnel carries the potential for confrontation. The primary responsibility for avoiding or defusing this risk lies with the undercover agent(s).

### **429.2 PROCEDURE**

The actions and behavior of the undercover agent when contacted by a uniformed officer are critically important. The following guidelines are intended to assist in avoiding or alleviating the potential danger associated with such contacts. The undercover agent should:

- a. Carry his/her firearm concealed rather than partially or completely exposed to view.
- b. Avoid any sudden movement which could be interpreted as suspicious or threatening, and keep his/her hands in sight and open.
- c. Verbally identify himself/herself and tell the officer where his/her credentials and weapon(s) are located.
- d. Follow the instructions of the uniformed officer explicitly and without hesitation.
- e. Upon request, provide the name and phone number of his/her supervisor or another agency member who may be contacted for verification.



## **432 Shoulder Weapons**

### **432.1 PURPOSE AND SCOPE**

In order to more effectively and accurately address the increasing level of fire power and body armor utilized by criminal suspects, the California Department of Justice will make shoulder weapons available to qualified agents as an additional and more immediate tactical resource.

Refer to Policy Manual § 312 for the Division's complete firearm policy, the provisions of which shall apply to the use of shoulder weapons.

### **432.2 SHOULDER WEAPONS**

#### **432.2.1 DEFINITION**

A shoulder weapon is an authorized weapon which is owned by the Department and which is made available to properly trained and qualified agents as a supplemental resource to their duty handgun. No personally-owned shoulder weapons may be carried.

### **432.3 SPECIFICATIONS**

Only weapons and ammunition that meet agency authorized specifications, approved by the Director, and issued by the Department may be used by agents in their law enforcement responsibilities. All ammunition used in Department-issued shoulder weapons shall be obtained from the Rangemaster. The authorized shoulder weapons issued by the Department are:

- a. Shotguns:
  - 1. Remington 870
  - 2. Benelli Super 90
- b. Rifle systems:
  - 1. Colt/Bushmaster
  - 2. Remington 700-bolt action
  - 3. Heckler & Koch
- c. Selective fire weapon systems:

1. Colt/Bushmaster
  2. Heckler & Koch
- d. Grenade launchers:
1. Heckler & Koch 69A1 - 40mm
  2. Def-Tec Models 1325 - 40mm and 1375 Multi-Launcher - 40mm
  3. Penn Arms GL-6 Multi-Launcher - 40 mm

Every Department-owned and -issued shoulder weapon used for enforcement and tactical entry, other than a grenade launcher or a shotgun used with less lethal munitions, shall have a tactical light affixed to it. Shotguns and selective fire weapons shall be used with the Department-approved three-point tactical sling. Grenade launchers shall be used with the Department-approved orange-colored three-point tactical sling and equipped with an electronic lighting device (e.g. Holographic).

#### **432.4 SHOULDER WEAPON MAINTENANCE**

- a. Primary responsibility for maintenance of shoulder weapons shall fall on the Rangemaster who shall inspect and service each shoulder weapon on a monthly basis.
- b. Each agent carrying a shoulder weapon may be required to field strip and clean it as needed.
- c. Each agent shall be responsible for promptly reporting any damage or malfunction of an assigned shoulder weapon to the Rangemaster.
- d. Each shoulder weapon shall be subject to inspection by a supervisor, the Rangemaster or Firearms Officer at any time.
- e. No modification shall be made to any shoulder weapon without prior written authorization from the Firearms Officer.
- f. Repairs to shoulder weapons shall be limited to minor parts replacement performed by a Department-approved armorer who has been factory-trained to work on that weapon system. Shoulder weapons requiring further repairs shall be sent to the Firearms Officer.
  1. Agents who have been assigned sniper rifles may request modification of the trigger pull. If approved, the modification shall be made by an armorer who has been certified to work on the weapon system. The written request for modification shall include the serial number of the firearm and a copy of the armorer's certification for

the weapon system. Once written approval is received from the Firearms Officer, the trigger pull may be set to no less than 2.5 lbs. Copies of the request, approval, and armorer's certification shall be maintained by the Firearms Officer.

## **432.5 TRAINING**

Agents are recommended by their SAC and certified by the Firearms Officer to carry shoulder weapons. If the agent is at or above the rank of SAC, the initial recommendation is made by his/her supervisor. Agents shall not carry or utilize the shoulder weapon unless they have successfully completed departmental training specified in the DOJ Firearms and Training Manual for that particular weapon. Agents shall thereafter be required to successfully complete quarterly training and qualification with the assigned shoulder weapon(s) at a Department range in accordance with Policy Manual § 312.4.

An agent who fails to qualify with any assigned shoulder weapon(s) as described in this policy during any quarter shall return the weapon(s) to the Rangemaster until properly qualified. Any agent who fails to qualify or who fails to successfully complete two or more department sanctioned training/qualification sessions within a calendar year will no longer be authorized to carry the shoulder weapon without successfully retaking the initial user's course and qualification.

## **432.6 DEPLOYMENT OF THE SHOULDER WEAPON**

Agents may deploy the shoulder weapon in any circumstance where the agent can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the shoulder weapon may include, but are not limited to:

- a. Situations where the agent reasonably anticipates an armed encounter.
- b. When an agent is faced with a situation that may require the delivery of accurate and effective fire at long range.
- c. Situations where an agent reasonably expects the need to meet or exceed a suspect's firepower.
- d. When an agent reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage.
- e. When an agent reasonably believes that a suspect may be wearing body armor.
- f. When authorized or requested by a supervisor.

## **432.7 DISCHARGE OF THE SHOULDER WEAPON**

The discharge of the shoulder weapon shall be governed by the Division's Use of Force Policy, Policy Manual § 300 and reported in accordance with Policy Manual § 304.1.4.

## **432.9 SHOULDER WEAPON STORAGE**

Shoulder weapons shall be stored in accordance with Policy Manual § 312.

- a. Shoulder weapons shall be transported in their issued case to and from DOJ vehicles as discreetly as possible.
  1. When stored in a vehicle, shoulder weapons shall be either secured by chain and lock to a solid metal interior support, a gun lock, a DOJ-issued electronic locking system (ELS), in a lock equipped vault in the trunk, in a locked secured container/shell within the bed of a truck, or in the locked rear area of a sports utility vehicle. When the weapon is stored in a DOJ vehicle that is not in use, the vehicle shall be parked and alarmed in a locked garage, if possible.
  2. When a shoulder weapon is taken to an employee's residence, it shall remain secured in the DOJ vehicle as described above and the vehicle shall be parked in a locked garage, if possible. At no time shall an employee report for duty and leave the weapon secured at his/her residence.
- b. If the employee is on-duty and not using the shoulder weapon, it shall be stored in his/her DOJ vehicle or the regional office armory.
- c. When a qualified agent reports for duty, he/she may, with his/her supervisor's approval, contact the SAC for access to the armory. Each time the assigned shoulder weapon is placed in or taken out of the armory, it shall be recorded on the armory weapons log.

## **434 Aircraft Accidents**

### **434.1 PURPOSE AND SCOPE**

This policy describes situations involving aircraft accidents including responsibilities of personnel, making proper notification, and documentation.

### **434.2 RESPONSIBILITIES**

In the event of an aircraft crash the employee is responsible for assisting the local law enforcement agency having jurisdiction over the crash site, if assistance is requested.

#### **434.2.2 NATIONAL TRANSPORTATION SAFETY BOARD**

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft incident, the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, whether or not injuries or deaths have occurred.

If the accident did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an on-site investigation, at the discretion of the pilot or the owner.

### **434.3 DOCUMENTATION**

Any aircraft accident (crash) of a DLE aircraft, regardless of whether injuries or deaths occur, shall be documented in an investigative report.

**438 Not subject to disclosure due to agent safety concerns**

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## **440 Field Interviews & Photographing of Field Detainees**

### **440.1 PURPOSE AND SCOPE**

Refer to the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested.

## 442 Criminal Street Gangs

### 442.1 PURPOSE AND SCOPE

It is the policy of this department to establish a procedure for identifying criminal street gangs, participants of criminal street gangs, and patterns of criminal activity as outlined in Penal Code § 186.20 through Penal Code § 186.33 of the "Street Terrorism Enforcement and Prevention Act."

The intent of this policy is to provide for the collection and management of criminal street gang information so as to enhance officer safety and the criminal prosecution of criminal street gang participants.

### 442.2 DEFINITIONS

**Pattern of Criminal Gang Activity** - The commission, attempted commission, conspiracy to commit, sustained juvenile petition for, or conviction of two or more of any offenses as described in Penal Code § 186.22(e), as long as at least two of the offenses are committed on separate occasions within three years of each other or by two or more individuals on the same occasion.

**Criminal Street Gang** - Any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs 1 through 25 or paragraphs 31 through 33 of Penal Code § 186.22(e), and which has a common name or common identifying sign or symbol, and whose members individually or collectively engage or have engaged in a pattern of criminal street gang activity.

**Gang Related Crime** - Any crime, which is committed for the benefit of, at the direction of, or in association with, a criminal street gang with the intent to promote, further or assist any criminal street gang.

### 442.3 IDENTIFICATION OF CRIMINAL STREET GANGS / PARTICIPANTS

Based upon their assignment (i.e. a regional gang task force, the BI Special Operations Unit), employees shall be authorized to collect information on individuals who are suspected of participating in a criminal street gang and groups that are suspected of being criminal street gangs.

- a. A group of three or more individuals shall be designated a criminal street gang when:
  1. They have a common name or common identifying sign or symbol.

2. There is evidence, substantiated by crime and informational reports, that a primary activity of the group is the commission of one or more criminal acts enumerated in Policy Manual § 442.2(a).
  3. One or more members individually or collectively have engaged in a pattern of criminal gang activity as defined in Policy Manual § 442.2(a).
  4. A designated representative of the District Attorney's Office reviews the available evidence and concurs with a Department finding that the group meets the criteria for being a criminal street gang.
- b. An individual shall be designated as a participant in a criminal street gang and included in a gang file, when one or more of the following elements have been verified by a Gang/Information Unit member and a reasonable basis for believing such affiliation has been established and approved by a supervisor:
1. An individual admits membership in a criminal street gang.
  2. A reliable informant or known gang member identifies an individual as a participant in a criminal street gang.
  3. An informant of previously untested reliability identifies an individual as a participant in a criminal street gang when that identification is corroborated by independent information.
  4. An individual resides in or frequents a particular criminal street gang's area, and affects their style of dress, color of dress, use of jewelry, tattoos, monikers, or any other identifiable mannerism associated to that particular criminal street gang, and where the agent documents reasonable suspicion that the individual is involved in criminal gang activity or enterprise.
  5. A person has been arrested in the company of identified criminal street gang members for offenses that are consistent with criminal street gang activity or criminal street gang related crimes.
  6. An individual is identified as a gang member in a criminal street gang document or the individual is depicted in a criminal street gang member's photograph(s) in such a manner as to clearly indicate membership in a criminal street gang.
  7. An individual otherwise meets the criteria of a criminal street gang participant under the guidelines of a department approved gang intelligence database and/or 28 C.F.R. 23.20.

- c. An individual may be designated as a gang affiliate only when the individual is known to affiliate with active criminal gang members and an agent has established that there is reasonable suspicion that the individual is involved in criminal activity. An agent's belief must be premised upon reasoning and logic coupled with sound judgment based upon law enforcement experience, rather than a mere hunch or whim.

#### **442.4 CRIMINAL STREET GANG INVESTIGATION FILE**

A file of criminal street gang participants shall include:

- a. Names, aliases, monikers, tattoos, addresses, and other relevant identifying information;
- b. Gang name;
- c. Justification used to identify an individual as a criminal street gang participant;
- d. Vehicle(s) known to be used;
- e. Cross-references to other identified gangs or gang members.

##### **442.4.1 REVIEW AND PURGING OF GANG PARTICIPANT FILE**

Temporary files shall not be retained longer than one year. At the end of one year, temporary files must be purged if the information does not qualify for entry into CalGang®.

The SAS/TFC shall periodically review temporary files to verify that the information was properly obtained and meets the criteria for retention. Validation and purging of temporary criminal street gang files is the responsibility of the SAS/TFC.

##### **442.4.2 CRIMINAL GANG INTELLIGENCE DATABASE**

The Director has approved the CalGang® criminal gang intelligence database for use by members of the Division. The CalGang® database is compliant with 28 C.F.R. § 23.20 regulating criminal intelligence systems. Employees must obtain the requisite training before accessing CalGang®.

Authorized SASs, TFCs, and agents shall ensure that individuals subject to investigation, exhibiting gang membership criteria developed by CalGang®, are entered into the CalGang® system in order to enhance statewide criminal intelligence. A related location or vehicle shall also be entered into the system.

It is the responsibility of the SAS/TFC to retain reports and FIs in compliance with the procedures of the Department-approved criminal gang intelligence database and 28 C.F.R. § 23.20. These reports or FIs may not be purged without the approval of the SAS/TFC.

#### **442.5 FIELD CONTACTS**

Agents who contact individuals who are, or may be, participants in criminal street gang activity should document the reasonable suspicion underlying the contact and the exact circumstances leading to the suspicion that the individual is a criminal street gang participant (e.g., subject states he or she is a member of XYZ gang; XYZ tattoo on right hand near thumb; wearing ball cap with gang name printed in blue or red ink) in a report.

#### **442.6 NOTIFICATION TO PARENT OR GUARDIAN**

When an inquiry is made by a parent or guardian as to whether a juvenile's name is in the criminal street gang investigation file, such information shall be provided by the unit supervisor, unless there is good cause to believe that the release of such information may jeopardize an ongoing criminal investigation.

Employees must observe strict compliance with the rules of CalGang<sup>®</sup> regarding release of information from that database.

#### **442.7 DISSEMINATIONS OF THE FILE INFORMATION**

Information from the temporary criminal street gang participant files may only be furnished to Department personnel and other public law enforcement agencies on a need-to-know basis. This means information that may be of use in the prevention of gang-related criminal activity or in the investigation of gang-related crimes shall be released to members of this department and other law enforcement agencies.

Information from any department approved database, including CalGang<sup>®</sup>, must only be released in compliance with the rules for that particular database.

#### **442.8 REPORTING CRITERIA AND ROUTING**

Incidents that appear to be criminal street gang related shall be documented in an investigation report and shall at minimum include the following:

- a. A description of any document, statements, actions, dress or other information that would tend to support the agent's belief that the incident may be related to the activities of a criminal street gang.
- b. Whether any photographs were taken and a brief description of what they depict.

c. What physical evidence, if any, was observed, collected or booked.

d. A list of individuals or agencies to whom a copy of the report was given.

Any photographs taken or evidence collected shall be booked in accordance with current evidence booking procedures.



## **444 Special Agents in Charge**

### **444.1 PURPOSE AND SCOPE**

Each regional office must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a SAC heads each regional office.

### **444.2 DESIGNATION AS ACTING SAC**

When a SAC is unavailable for duty as SAC, in most instances the senior qualified Special Agent Supervisor shall be designated as acting SAC. This policy does not preclude designating a less senior Special Agent Supervisor as an acting SAC when operational needs require or training permits.

## 452 Medical Marijuana

### 452.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for handling and distinguishing between claims of medical marijuana use under California's Compassionate Use Act (Health & Safety Code § 11362.5) and criminal narcotics violations.

### 452.2 ENFORCEMENT

Although federal law does not currently permit possession of marijuana for medical use, California has created a limited defense (i.e. no penalty) for certain qualified individuals possessing small quantities of marijuana for medical use under strict conditions.

- a. Notwithstanding California Medical Marijuana laws:
  1. California does not provide any exception for individuals driving under the influence of marijuana. All such cases should be handled with appropriate enforcement action (e.g., Vehicle Code § 23152, et seq.).
  2. Medical marijuana may not be smoked outside of a residence within 1000 feet of a school, recreation center, youth center or in a vehicle or boat (Health & Safety Code § 11362.79).
  3. No probationer or parolee may possess medical marijuana unless such possession is authorized in writing by court order or parole conditions (Health & Safety Code § 11362.795).
- b. Possession, cultivation and sales of marijuana in quantities beyond that which might reasonably be construed as for personal use should be handled as criminal cases with appropriate enforcement action taken pursuant to Health & Safety Code §§ 11357, 11358 and 11359.
  1. The amount of marijuana possessed must be consistent with the medical needs of the qualified patient or person with valid ID card.
  2. The quantity and form of marijuana must also be reasonably related to the patient's current medical needs.
    - a. Absent a verifiable doctor's recommendation to exceed allotted quantities, a qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient, and;
    - b. Maintain no more than six mature, or twelve immature marijuana plants per qualified patient (Health & Safety Code § 11362.77(a)(b)).

- c. In any case involving the possession or cultivation of marijuana, the agent should inquire whether the individual is claiming that the marijuana is for medicinal purposes.
  1. If no such claim is made, the agent should proceed with normal enforcement action.
  2. If a claim of medicinal use is made, the agent should proceed as outlined below.

## **452.3 MEDICINAL USE CLAIMS**

In order to qualify for a medicinal marijuana defense, any individual making such a claim must affirmatively establish the following information. If the individual cannot or will not provide all of the required information, the agent should note such fact in any related report and proceed with appropriate enforcement action.

### **452.3.1 PATIENTS**

- a. An individual may establish his/her status as a qualified patient by presenting a current and valid state issued identification card issued by the Department of Health (Health & Safety Code § 11362.735). Such identification cards shall contain the following information:
  1. A unique serial number.
  2. An expiration date.
  3. The name and telephone number of the county health department approving the application.
  4. A 24-hour toll-free number for law enforcement to verify the validity of the card (Verification can be checked at [www.calmmp.ca.gov](http://www.calmmp.ca.gov)).
  5. A photograph of the cardholder.

No agent shall refuse to accept a properly issued identification card unless the agent has reasonable cause to believe that the information contained in the card is false or that the card is being used fraudulently (Health & Safety Code § 11362.78).

- b. If the individual does not possess a valid state issued identification card, the individual claiming status as a qualified patient must minimally provide the following information:
  1. Satisfactory identification establishing current residency in California.
  2. A current and valid medical marijuana ID card from a local governmental agency (e.g., county) or a current and verifiable, written recommendation for marijuana from a California licensed physician.

3. In the absence of a valid identification card, the agent should also obtain a written waiver from the involved individual authorizing the release of all related medical records.

### **452.3.2 PRIMARY CAREGIVERS**

Primary caregivers are subject to the following requirements (Health & Safety Code 11362.765):

- a. A primary caregiver is not authorized to use, sell, or possess marijuana for sale.
- b. A primary caregiver must provide sufficient proof that he/she is responsible for the patient's housing, health and/or safety.
- c. A primary caregiver must provide sufficient proof of personal knowledge of the patient's medical needs and the details of the attending physician's recommendation.
- d. Upon proof that a qualified primary caregiver is caring for more than one qualified patient, he/she may aggregate possession and cultivation limits. For example, a primary caregiver caring for three qualified patients may possess 24 ounces (eight ounces per patient) of marijuana (Health & Safety Code § 11362.7(d)(2)).
- e. While qualified patients and primary caregivers may be permitted to collectively or cooperatively associate to cultivate medical marijuana, such individuals must strictly adhere to all non-profit and local business requirements (Health & Safety Code § 11362.775).

### **452.3.3 CLAIM REQUIREMENTS MET**

Once the handling agent is satisfied that the individual making a medicinal marijuana use claim meets the above requirements, the agent should proceed as follows:

- a. A small sample of the involved marijuana should be seized and booked into evidence.
- b. Any allowable amount of marijuana left in possession of a qualified individual for the limited purpose of medicinal use should be described and noted in the related report.
- c. If the handling agent has already taken the individual into custody (vs. detention only) prior to establishing qualification for a potential medicinal use defense and there are no other criminal charges pending or being investigated, the individual should be released pursuant to Penal Code § 849(b).
- d. If the individual remains in custody on any charge(s), the individual will not be permitted to use marijuana while being detained or held in jail or other law enforcement facility (Health & Safety Code § 11362.785(c)).

- e. The handling agent shall complete a timely report which will be submitted to the District Attorney with all of the aforementioned documentation for a determination of whether the medicinal marijuana defense will apply.

#### **452.3.4 RETURN OF MARIJUANA**

Regardless of the prosecution status or disposition of any related criminal case, this department will not be responsible for the return of any marijuana seized as evidence except as may be required by a valid court order (Health and Safety Code § 11473.5 and 21 U.S.C. § 885(d)).

## **458 Foot Pursuit Policy**

### **458.1 PURPOSE AND SCOPE**

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist agents in making the decision to initiate or continue the pursuit of suspects on foot by balancing the objective of apprehending the suspect with the risk of potential injury to the agent, the public or the suspect.

#### **458.1.1 POLICY**

It is the policy of this department when deciding to initiate or continue a foot pursuit that agents must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Agents are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Agents must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

### **458.2 DECISION TO PURSUE**

Agents may be justified in initiating a foot pursuit of any individual the agent reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity.

Deciding to initiate or continue a foot pursuit is a decision that an agent must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department personnel and the public at significant risk. Therefore, no agent or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an agent should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

- a. Containment of the area
- b. Canine search
- c. Saturation of the area with personnel
- d. Aerial support
- e. The availability of other law enforcement agencies to assist
- f. Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the pursuit

### **458.3 GUIDELINES FOR FOOT PURSUIT**

Unless the agent reasonably believes that exigent circumstances exist (e.g. a serious threat to the safety of personnel or members of the public), agents should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

- a. When directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory.
- b. When the agent is acting alone.
- c. When two or more agents become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single agent keep the suspect in sight from a safe distance and coordinate the containment effort.
- d. The agent is unsure of his/her location and direction of travel.
- e. When pursuing multiple suspects and the pursuing agents do not reasonably believe that they would be able to control the suspect should a confrontation occur.
- f. When the physical condition of the agents renders them incapable of controlling the suspect if apprehended.
- g. When the agent loses radio contact with backup agents.
- h. When the suspect enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient agents to provide backup and containment. The

primary agent should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient agents/allied agency personnel.

- i. The agent becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to agents or the public.
- j. The agent reasonably believes that the danger to the pursuing agents or public outweighs the objective of immediate apprehension.
- k. The agent loses possession of his/her firearm or other essential equipment.
- l. The agent or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- m. The suspect's location is no longer definitely known.
- n. The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department personnel or the public if the suspect is not immediately apprehended.
- o. The agent's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

## **458.4 RESPONSIBILITIES IN FOOT PURSUITS**

### **458.4.1 INITIATING AGENT RESPONSIBILITIES**

Unless relieved by another agent or a supervisor, the initiating agent shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating agent should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient agents are present to safely apprehend the suspect.

Early communication of available information from the involved agents is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Agents initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

- a. Unit identifier.
- b. Location and direction of travel.
- c. Reason for the foot pursuit.



- d. Number of suspects and description.
- e. Whether the suspect is known or believed to be armed.

Agents should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any agent unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the agent will notify the appropriate local law enforcement agency having jurisdiction of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

#### **458.4.2 ASSISTING AGENT RESPONSIBILITIES**

Whenever any agent announces that he/she is engaged in a foot pursuit, all other agents should minimize nonessential radio traffic to permit the involved agents maximum access to the radio frequency.

Any agent who is in a position to intercept a fleeing suspect or who can assist the primary agent with the apprehension of the suspect, shall act reasonably and in accordance with department policy, based upon available information and his/her own observations.

#### **458.4.3 SUPERVISOR RESPONSIBILITY**

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing agents or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-pursuit activity.

#### **458.4.4 BASE STATION RESPONSIBILITIES**

Upon being notified or becoming aware that a foot pursuit is in progress, the base station operator shall, as soon as practicable, notify the field supervisor and provide available information. The base station operator is also responsible for the following:

- a. Clear the radio channel of nonemergency traffic.
- b. Repeat the transmissions of the pursuing agent as needed.
- c. Relay all pertinent information to responding personnel.
- d. Contact additional resources as directed by a supervisor.
- e. Coordinate response of additional resources to assist with the foot pursuit.

#### **458.5 REPORTING**

The initiating agent shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

- a. The reason for initiating the foot pursuit.
- b. The identity of involved personnel.
- c. The course and approximate distance of the pursuit.
- d. Whether a suspect was apprehended as well as the means and methods used.
  1. Any use of force shall be reported and documented in compliance with the Department Use of Force Policy.
- e. Any injuries or property damage.

In the event that the agent is unable to comply with this reporting requirement, the responsibility to report shall rest with any agents who witnessed the foot pursuit.

Assisting agents taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating agent need not complete a formal report.

## **459 Statements and Admissions of Suspects**

### **459.1 PURPOSE & SCOPE**

It is the policy of this division that its agents attempt to obtain statements and admissions from all suspects.

#### **459.1.1 PROCEDURE**

Agents should attempt to obtain statements and admissions from all suspects. Whenever possible, the statements or admissions should be recorded. If the agent is unable to record the statements, a witness agent or officer should be present during the interview. Agents, including task force agents, shall give the Miranda warning to all suspects in compliance with case law. To ensure all suspects are given a complete and accurate Miranda warning, agents should, if possible, read the warning to the suspects from a "Miranda Warning Card."

Spontaneous statements made by suspects outside of Miranda shall be documented in the investigation report or asset forfeiture report.

## **463 Mandatory Case Event Deconfliction Inquiries and Submissions**

### **463.1 PURPOSE & SCOPE**

Supervisors, TFCs and primary case agents are responsible for ensuring that deconfliction inquiries are made on all subjects (i.e., addresses, vehicles, etc.) of investigations for which they are responsible and all informants utilized during those investigations. They shall also make intelligence database inquiries on all suspects identified during investigations.

### **463.2 PROCEDURE**

Deconfliction inquiries will be made immediately upon identification. Where possible, the posting of operational events into the deconfliction system should be made at least two hours in advance of the operation.

Regional offices and DLE task forces within the Los Angeles, Orange, Riverside and San Bernardino Counties and those that are assigned to, or receive funding from, the Central Valley High Intensity Drug Trafficking Area (CV-HIDTA) region or the Northern California High Intensity Drug Trafficking Area (NC-HIDTA) region shall use the Los Angeles Regional Criminal Intelligence Clearinghouse (LA CLEAR) Intelligence and Deconfliction Watch Center ("War Room") for all case and event intelligence deconfliction.

Regional offices and DLE task forces (and their task force members) within San Diego and Imperial Counties shall use the San Diego Law Enforcement Coordination Center (SD-LECC) Intelligence and Deconfliction Watch Center for all case and event intelligence deconfliction.

Absent any direction to the contrary, either due to funding source issues or local agreements, etc., all regional offices and DLE task forces (and their task force members) within all other counties may call either the Western States Information Network (WSIN) Intelligence and Deconfliction Watch Center or the LA CLEAR War Room for case and event intelligence deconfliction. Under this circumstance, it is recommended that staff utilize the Watch Center closest to their assigned regional area of responsibility. Because the California State Intelligence Index (CSII) used by DLE and LA CLEAR and the WSIN RISSIntel databases are seamlessly connected, all regional offices and DLE task forces with remote access capabilities may make deconfliction inquiries and/or submissions into RISSIntel and/or RISSafe.

All regional offices, and all DLE task forces that utilize CIMS, are required to store appropriate investigative information on the CSII through CIMS. To ensure that proper linkages are created, the storage of information through CIMS into CSII shall be done even if the original case and event intelligence deconfliction was accomplished through the WSIN Intelligence and Deconfliction Watch Center or through RISSIntel remote access.

**465 Not subject to disclosure due to agent safety concerns**

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## **469 Threats Against Employees**

### **469.1 PURPOSE & SCOPE**

The purpose of this policy is to provide guidance to employees and supervisors in the event a job-related threat of physical harm is made against an employee of this division or an employee's immediate family.

### **469.2 POLICY**

Any employee of this division who receives information of a job-related threat of physical harm against himself/herself, his/her immediate family members, any other employee, or any other employee's immediate family shall, without delay, report the information to his/her immediate supervisor.

- a. The supervisor shall obtain as much information from the reporting employee as possible, including, if known, the following details:
  1. The name(s) of the threatened individual(s).
  2. The bureau assignment of the threatened or related employee.
  3. The source of the information concerning the threat.
  4. The nature and immediacy of the threat.
  5. The identity of the person(s) making the threat.
  6. The reason for the threat.
  7. When, where, how and to whom the threat was made.
  8. Any witness(s) to the threat.
  9. The reason the threat is believed to be job-related.
- b. The supervisor shall immediately contact the threatened/related employee's regional manager and verbally report the information received. Additionally, the supervisor will direct the reporting employee to immediately prepare a memorandum to the regional manager detailing the information provided to the supervisor and the date and time it was reported.
- c. The regional manager will assess the nature of the threat and take the necessary steps to secure the safety of the employee and/or the employee's immediate family.



- d. After taking the necessary steps to ensure the safety of the employee and/or the employee's immediate family, the regional manager will verbally report to the Bureau Chief the known details of the threat, the regional manager's assessment of the threat, and the steps he/she has taken to ensure the safety of the employee and/or the employee's immediate family.
- e. The regional manager will also, when appropriate, notify local law enforcement officials of the threat and provide the local officials all known information concerning the threat to aid them in their role in protecting the safety of the employee and/or the employee's family in the investigation of the threat and, when appropriate, the apprehension of the person(s) making the threat.
- f. The regional manager will, within 24 hours of being notified of the threat, send a memorandum to bureau headquarters detailing the information received concerning the threat, the regional manager's assessment of the threat, the steps taken to protect the immediate safety of the employee and/or the employee's family, and the steps being taken to resolve or remove the threat.
- g. After the immediate safety of the employee and/or the employee's family has been ensured or it is determined that the threat is not job-related, the continuing safety of the employee and/or the employee's family shall be the responsibility of the appropriate local agency. If, however, the threat is job-related and the Bureau Chief determines there will be an ongoing need to provide protection to the employee and/or the employee's family, the regional manager shall submit a proposal to the Bureau Chief for providing such protection, the resources needed to provide the protection, and the steps being taken to resolve the threat.
- h. The Bureau Chief will establish the manner and frequency of reports from the regional manager to the Bureau Chief concerning the situation until the matter is resolved.

## *Chapter 5 - Traffic Operations*

### **510 Vehicle Towing and Release**

#### **510.1 PURPOSE AND SCOPE**

Refer to the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for issues relating to vehicle impounds and inventories.

## **600 Investigation and Prosecution**

### **600.1 PURPOSE AND SCOPE**

When assigned to a case for initial or follow-up investigation, agents shall proceed with due diligence in evaluating and preparing the case for appropriate clearance or presentation to a prosecutor for filing of criminal charges.

### **600.2 MODIFICATION OF CHARGES FILED**

Employees are not authorized to recommend to the District Attorney, Attorney General, or to any other official of the court that charges on a pending case be altered or the case dismissed. In all cases resulting in court prosecution, any request to modify the charges filed or to recommend dismissal of charges in a pending case shall be made to the District Attorney's Office or Attorney General's Office only as authorized by a Bureau Chief or the Director.

### **600.3 CUSTODIAL INTERROGATION REQUIREMENTS**

Refer to Chapter 7, Section III of the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for issues related to this subject matter.

## **601 Investigative Funds**

### **601.1 PURPOSE AND SCOPE**

The Investigative Fund is authorized by Health and Safety Code § 11454 for the purchase of controlled substances for evidence and in the employment of operators to obtain evidence by agents of this department.

### **601.2 CONTROL OF INVESTIGATIVE FUNDS**

The Bureau Chief is responsible for all funds expended by the regional offices from the Revolving Fund. Reports of expenditures shall be forwarded on Operator-Evidence Expense Vouchers (JUS 901) to the Bureau Chief for review or approval as appropriate. After approval, the vouchers shall be forwarded to DAS for accounting and auditing purposes. DAS reimburses the appropriate SAC by check.

#### **601.2.1 ACCOUNTABILITY FOR INVESTIGATIVE FUNDS**

Each SAC and TFC is accountable for the proper disbursement and control of the monies held in or disbursed from the Investigative Fund and for the submission of Operator-Evidence Expense Vouchers.

### **601.3 CASH FUND AUDIT**

Regional office and task force Investigative Funds must be audited on a monthly basis.

#### **a. Definitions**

1. Permanent Operator Evidence Fund Allocation - A permanent investigative fund advance allocated to the regional office for utilization for its operation. The amount that each unit receives is authorized by the Bureau Chief.
2. Temporary advance - A temporary investigative fund advance allocated to the regional office for utilization for its operation in addition to the permanent investigative fund. The amount of the temporary advance is authorized by the Bureau Chief.
3. Flash Rolls - Also referred to as temporary advances, flash rolls are used to assist in the purchase of evidence and are drawn from the Revolving Fund account. These temporary advances are used by agents to show the individual that they have the money to make an evidence purchase. Flash rolls are not used to purchase the evidence and should be distinguished from the regular investigative fund money, which are used to make the actual evidence purchase.

4. Outstanding Temporary Advance - Flash rolls received in a prior month that have not been returned to the Revolving Fund account and are retained by the regional office/task force at the end of the previous month.
5. New Temporary Advance - Current month flash rolls drawn from the Revolving Fund account and retained by the regional office/task force at the end of the month.
6. Repayment of Temporary Advance - Deposit/return of the current and/or prior month flash rolls to the Revolving Fund account for the current month Cash Fund Audit Report
7. Uncashed Reimbursement Checks - Revolving Fund check(s) the regional office received from DAS Accounting for the reimbursement of previously submitted Operator Evidence Expense Vouchers, that have been not deposited or cashed at the end of the month
8. Outstanding Vouchers:
  - a. Regional Office - Outstanding Vouchers are the Operator Evidence Expense vouchers that have been submitted by agents and/or SAS/TFCs for the expense of evidence funds to the SAC, and the vouchers have not been submitted to bureau headquarters/DAS Accounting for reimbursement at the end of the month.
  - b. Task Force - Outstanding Vouchers are the Operator Evidence Expense Vouchers that have been submitted by agents for the expense of evidence funds to the SAS/TFC but have not been submitted to the regional office for return of advance at the end of the month.
9. Outstanding Advance to Agents:
  - a. Regional Office - Outstanding advances to agents are evidence funds assigned by the SAC to agents and/or SAS/TFCs that operate from the regional office that have not been returned at the end of the month.
  - b. Task Force - Outstanding advances to agents are evidence funds assigned by the SAS/TFC to agents for field operations that have not been returned at the end of the month.
- b. Regional Offices:

1. At the end of each month, the SAC shall conduct an audit of the state Investigative Funds assigned to his/her regional office. The cash fund audit shall be conducted by a designated "auditor" not associated with the funds. The audit shall be prepared using the DOJ Cash Fund Audit form (JUS A-70, available on the DOJ Intranet), which shall reconcile cash on hand, uncashed reimbursement checks, completed vouchers, special advances (flash rolls and additional evidence advances) received by the office, and cash advances assigned to agents.
2. By the fifth calendar day of every month, the SAC or designee shall contact the DAS Revolving Fund Unit to obtain a faxed copy of their regional office's open item report. This report lists funds advanced to the regional office during the previous month and shall be used as the basis when completing the JUS A-70 to ensure compatibility with DAS accounting records. Questions regarding the completion of the JUS A-70 form should be directed to, and open item lists should be requested from, the DAS Revolving Fund Unit at (916) 324-5076.
3. Upon completion of the JUS A-70 form, the SAC shall sign this form as the "Custodian," and the person conducting the audit shall sign as the "Auditor." All JUS A-70 forms shall be completed and forwarded, with original signatures, to DAS by the fifteenth day of the following month for which the form is completed. The form shall be mailed via U.S. mail to the DAS Accounting Office - Revolving Fund Unit, P. O. Box 944256, Sacramento CA 94244-4256. A copy shall also be forwarded to bureau headquarters by the fifteenth of the month. The regional office shall maintain copies of all monthly audit reports on file, in accordance with DOJ's records retention schedule.

c. Task Forces:

1. At the end of each month, the TFC shall direct an audit of all Investigative Funds (State, task force, local or WSIN) assigned to his/her office from the regional office. A designated person not associated with the funds shall conduct the cash fund audit. The audit shall be prepared using the JUS A-70 form, which shall reconcile cash on hand, completed vouchers, special advances (flash rolls and additional evidence advances) received by the task force office, and cash advances.
2. Upon completion of the JUS A-70 form, the TFC shall sign this form as the "Custodian" and the person conducting the audit shall sign as the "Auditor." The JUS A-70 forms, with original signatures, shall be completed and forwarded to the task force's regional office SAC by the tenth working day of each month. The task force and regional office shall both maintain copies of all task force monthly cash audit reports on file, in accordance with DOJ's records retention schedule.

The audit records for the task force, local and WSIN funds shall be maintained separately from state funds audit records.

3. The regional office shall maintain a file of the JUS A-70 forms submitted by the Task Forces assigned to the regional office. The JUS A-70 forms shall be filed chronologically and by task force. The JUS A-70 shall indicate when the form was received by the regional office, and the SAC shall initial and date that he/she has reviewed the JUS A-70.

d. Cash Fund Audit Report:

1. Regional Office - The SAC is accountable for Investigative Funds expended by the regional office from the Permanent Operator Evidence Fund Allocation. The accountability of the funds is reported on the JUS A-70. This report is also referred to as the cash fund audit report.
2. Task Force - The SAS/TFC is accountable for Investigative Funds expended by the task force from the advance to agent by the SAC. The accountability of the funds is reported on the JUS A-70.

e. JUS A-70 Operator Evidence Cash Fund Audit Report:

1. At the end of each month, the SAC and TFC(s) shall conduct an audit of the state Investigative Funds assigned to his/her regional office/task force. The Cash Fund Audit shall be conducted by a designated "auditor"/ person not associated with the funds. The audit shall be prepared using the JUS A-70 form, which shall reconcile cash on hand, uncashed reimbursement checks, completed vouchers, special advances (flash rolls and additional evidence advances) received by the office, and cash advances assigned to agents and/or task forces.
2. Questions regarding the JUS A-70 form should be directed to the DAS Revolving Fund Unit at (916) 324-5076.

#### **601.4 INVESTIGATIVE FUND EXPENDITURE AUTHORITY**

The maximum amount that may be expended, without prior approval, by the SACs in each bureau for the purchase of evidence, the employment of informants or operators, payment of investigation expenses, witness protection, and undercover gambling, is \$10,000. The standard \$10,000 limit may be reduced at the discretion of the Bureau Chief or for budgetary reasons by the Director, Deputy or Assistant Director or DAS.

Any expenditure in excess of the authorized amount shall be approved in advance by the Bureau Chief or Assistant Chief. In the event a SAC has expended his/her annual allotment of Investigative Funds, the SAC's spending authority is suspended until there has been an

approved augmentation to his/her annual allotment. The SAC may request an augmentation of their allotment in writing through the Bureau Chief to the Director or designee. The request shall state the amount requested and the reason the augmentation is needed. Requests shall be considered on a case-by-case basis. Augmentations are Investigative Funds and shall be expended in accordance with this manual. Approval of an augmentation shall not be considered a permanent increase in the regional office's Investigative Fund allotment.

SACs shall establish spending authorizations for SASs under their command. The spending authorizations permit the SASs to expend Investigative Funds without the prior specific approval of the SAC. The authorization shall be in writing and shall identify the limits of the authorizations. SASs without written spending authority, or whose spending authority has been suspended in writing, shall obtain approval from the SAC prior to the expenditure of any Investigative Funds.

Spending authorizations may vary between regional offices and between SASs within the same regional office, including those SASs assigned as TFCs. The authorizations may also be different for the purchase of evidence, payment for information and informant services, payment for investigation expenses, and payment for witness protection.

Agents shall obtain specific supervisory approval prior to the expenditure of any Investigative Funds.

SASs assigned to task forces shall establish spending authorities for only those agents or officers acting as second in command. If established, those authorizations shall be in writing, and a copy shall be given to the second-in-command and the SAC. All other task force agents shall obtain prior supervisory approval to spend Investigative Funds, regardless of whether the funds are state or local funds.

## **601.5 RECEIPT OF MONEY ADVANCED - SACS**

When Investigative Funds are issued to a SAS, TFC, or Special Agent by the SAC, a triplicate Fund Advance IOU Receipt form (JUS 8849) shall be completed by the receiving SAS, TFC, or Special Agent. SACs shall also complete a JUS 8849 whenever they obtain a cash advance. The JUS 8849 shall contain the date, the amount advanced (numerically and spelled out), either an investigation number or a short explanation as to the specific purpose for which the funds were drawn, the program code, and the signatures of the SAC and the receiving SAS, TFC, or Special Agent. The top copy of the JUS 8849 shall be placed in the cash box. The second copy of the JUS 8849 shall be left in the receipt book, which is maintained by the SAC. The bottom or third copy shall be issued to the receiving SAS, TFC, or Special Agent.

At no time shall agents use personal funds to conduct field operations or investigative activities, or to purchase evidence or pay for information.



All funds advanced shall be accounted for within 35 days by either a return of the money or a properly completed JUS 901. At that time, a new JUS 8849 shall be completed if the individual clearing the receipt retains or draws Investigative Funds. TFCs shall clear the receipt within 65 days, rather than 35 days. When the JUS 8849 receipt has been cleared, the issuing SAC shall enter the date the receipt was cleared, sign the JUS 8849 as the clearing signature, and add the appropriate investigation number if it differs from the original investigation number written on the JUS 8849, or add an investigation number if none was drawn at the time the funds were issued. The SAC shall note on the receipt the voucher numbers, total amount in vouchers, and amount of cash returned when clearing a receipt for money advanced. These notations shall be made on both the JUS 8849 in the cash box and the JUS 8849 in the receipt book. The copy of the JUS 8849 in the receipt book shall be retained in the receipt book by the SAC for three years from the date of issue. The top copy shall be taken from the cash box and given to the person clearing the receipt.

### **601.5.1 RECEIPT OF MONEY ADVANCED - SAS**

When Investigative Funds are issued to a Special Agent by an SAS or TFC, a triplicate JUS 8849 receipt shall be completed by the Special Agent. The JUS 8849 receipt shall contain the date, the amount advanced (written both numerically and in cursive), either an investigation number or a short explanation as to the specific purpose for which the funds are drawn, and the signature of both the SAS/TFC and the receiving Special Agent. The top copy of the JUS 8849 shall be placed in the cash box. The second copy of the JUS 8849 shall be left in the receipt book, which is maintained by the SAS/TFC. The bottom or third copy shall be issued to the receiving Special Agent.

All funds advanced shall be accounted for within 35 days by either a return of the money or a properly completed Operator-Evidence Expense Voucher. At that time a new JUS 8849 shall be completed if the individual retains or draws Investigative Funds. When the JUS 8849 receipt has been cleared, the issuing SAS or TFC shall enter the date the receipt was cleared, sign the JUS 8849 as the clearing signature, and add the appropriate investigation number if it differs from the original investigation number written on the JUS 8849, or add an investigation number if none was drawn at the time the funds were issued. The SAS or TFC shall note on the receipt the voucher numbers, total amount in vouchers, and amount of cash returned when clearing a receipt for money advanced.

These notations shall be made on both the JUS 8849 in the cash box and the JUS 8849 in the receipt book. The copy of the JUS 8849 in the regional office receipt book shall be retained in the receipt book by the SAC for three years from the date of issue. The copy of the JUS 8849 in the TFC's receipt book shall be retained in the receipt book by the TFC for three years from the date of issue. The top copy shall be taken from the cash box and given to the person clearing the receipt.

In instances where units expend state funds and other issued funds such as task force, local, or WSIN funds, the SAC, SAS, or TFC shall use a JUS 8849 book for state issued funds and a

separate JUS 8849 book for other investigative funds such as task force funds, local, WSIN funds, etc. The JUS 8849 book for state funds shall be clearly marked as such to avoid confusion. When using the "Other Funds" JUS 8849 book, the issuer shall clearly list the funding source on the individual receipt, i.e., task force funds, local funds, WSIN funds, etc.

## **601.6 PURCHASE OF EVIDENCE, INFORMATION, PAYMENT OF INVESTIGATION EXPENSES, AND WITNESS PROTECTION**

The Operator-Evidence Expense Voucher (JUS 901) shall be utilized for the expenditure of Investigative Funds. These funds shall be limited to: 1) purchase of evidence, 2) payment for information and informant services, 3) payment of investigation expenses, and 4) witness protection. Voucher numbers are automatically generated by CIMS for official case files. An informant number shall be a required field if the type of expense selected is related to an informant. The CIMS Expenditure Report shall be used for tracking all expenditures.

- a. Purchase of evidence: Funds may be used in the undercover purchase of different types of evidence related to the accomplishment of the mission. All vouchers for the purchase of evidence shall contain an investigation number and the evidence item number of the evidence purchased.
- b. Payment for information and informant services: Funds may be used to pay informants for information or specific services rendered in furtherance of an investigation. Vouchers for payments to informants shall contain an investigation number.
- c. Payment of investigation expenses: Funds may be used for expenses directly relating to a specific investigation wherein normal state purchasing methods are inappropriate because of timeliness or circumstances. Typical examples include undercover rental vehicles, undercover or surveillance rooms, film, batteries, undercover meeting expenses such as refreshments or food, and per diem or travel expenses for informants. All vouchers for investigation expenses shall contain an investigation number.
  1. Funds for investigation expenses shall not be used to circumvent normal purchasing or contracting procedures.
  2. Funds may also be used for translation services provided the following procedures are followed.
    - a. The SAC shall ensure that the need for the services is time critical and/or relates to a confidential case. A written request specifying these reasons shall be submitted to the appropriate Bureau Chief for review on a case-by-case basis.
    - b. The funds shall not be expended without written approval from the Bureau Chief.

- c. The costs per request shall not exceed \$1,000 without written approval from the Director or designee.
  - d. A copy of the written approval for the translation services from the Bureau Chief or Director shall be filed with the regional office copy of the vouchers.
3. All personnel shall attempt to utilize the Service Authorization form (JUS A400) or State contracting process prior to expending Investigative Funds for services.
- d. Payment for witness protection: Funds may be used to provide protection for witnesses for such expenses as relocation, per diem, housing, transportation, etc., after an investigation is completed and while awaiting court. All vouchers for witness protection expenses shall contain an investigation number. Indicate "witness protection" under voucher recap.

## **601.7 SUBMISSION OF VOUCHERS**

Completed Operator-Evidence Expense Vouchers shall be logged and forwarded by the SAC to bureau headquarters within 90 days. SACs should submit vouchers as they are completed to facilitate the timely reimbursement of funds. TFCs shall route vouchers to their SAC for processing as soon as practical, but no later than 65 days after issuance. However, all vouchers shall be submitted prior to the end of the fiscal year.

## **601.8 REIMBURSEMENT TO THE INVESTIGATIVE FUND**

Reimbursement checks covering the amount of expenditures are issued by DAS. Upon receipt of these checks, the SAC shall check and compare the voucher numbers and amounts on the check print out against copies of submitted vouchers, which are held in the regional office files, to ensure accuracy. In the event of any discrepancies, the check(s) shall not be cashed, and DAS shall be contacted for instructions regarding the check(s). The date of reimbursement and the check number shall be entered in blocks 31 and 32 on the JUS 901.

## **601.9 EXCESS FUNDS**

A common investigative technique used during covert investigations of gaming establishments is undercover gambling, wherein State funds are expended to enhance, prove, demonstrate or produce information pertaining to a violation of any governing ordinance, regulation, or law by a targeted gaming site. State funds are expended and reported in accordance with the procedures of this policy; however, this use of State funds is unique in that the funds may be "lost" (expended) or "won" (excess). For the purpose of this section, the term "operation" refers to investigative activity occurring at a single establishment on a single day.

In order to preserve the integrity of the operation, agents should have a law enforcement witness present whenever possible while gambling undercover with State funds. It is appropriate for agents to continue to gamble with excess funds during the same shift and at the same gaming establishment at which the funds were won. After the agent has left the gaming establishment at which the excess funds were won, the funds shall not be used for any other operation.

Currency that is won or seized at an illegal game or event shall be handled and processed as evidence. Excess currency that is won or seized at a legal game or event shall be handled as winnings and reconciled in the following manner at the conclusion of every such operation:

- a. Any funds up to the amount of the original advance shall be submitted to the supervisor to be returned to the investigative fund.
- b. If all or part of the original advance was lost, the loss shall be reported as an expenditure using a JUS 901.
- c. Any winnings in excess of the amount of the original advance shall be tracked in a Miscellaneous Revenue Receipt (MRR) log and submitted to DAS Accounting in accordance with the following procedures:
  1. The agent shall count the excess funds, complete Section A of the Miscellaneous Revenue Receipt form (JUS 8737) and deliver the funds and the JUS 8737 to the SAC as soon as possible.
  2. When excess funds are submitted to the SAC, he/she shall verify the count, log the funds and store them in the SAC safe. The blue copy of the JUS 8737 is then given to the agent for placement in the case file.
  3. The SAC shall ensure that the funds are delivered to DAS Accounting within 90 days and note the transfer in the MRR log. DAS will complete and retain the white (original) page of the JUS 8737; the pink copy is returned to the office and stored in the office's MRR file.

## **601.10 REGIONAL OFFICE EXPENDITURE REPORTS**

SACs are responsible for generating a monthly expenditure report in CIMS, sorted by voucher number. These reports may be sorted by voucher number, investigation number, program code, or confidential informant identification number. The SAC shall maintain a file of monthly expenditure reports printed from CIMS. The expenditure report shall be signed and dated by the SAC when it is reviewed and reconciled with the monthly cash audit.

### **601.10.1 TASK FORCE EXPENDITURE LOG**

TFCs shall maintain monthly expenditure reports or logs which reflect the expenditure of state and/or task force Investigative Funds. Task forces that use State funds shall use the expense log generated from CIMS to account for the expenditure of Investigative Funds. The TFC shall either print out or obtain from the regional office a printout of all Investigative Funds expended on a monthly basis. The TFC shall review, correct if necessary, and sign the monthly expenditure report by the tenth of each month. A file of the monthly expenditure logs shall be maintained by each task force.

If the task force is not using State funds for investigations, a log or ledger shall be kept to account for the expenditure of task force or other investigative funds. This log shall be kept at the task force in a bound ledger and shall include the date of expenditure, investigation number, payer's name, task force voucher number, type of expenditure (evidence, information, investigation expenses, or witness protection), and amount of expenditure. This log shall be maintained and reviewed on a monthly basis and shall show the totals of all monies expended in each category and the total amount of funds expended for the month. The TFC shall review, correct if necessary, and sign the log by the tenth of each month. The regional office SAC shall review, initial, and date the bound ledger each month.

Automated logs may be used in lieu of bound ledgers for Investigative Funds other than State funds, upon the recommendation of the SAC and the approval of the Bureau Chief. The automated expenditure log shall contain the same information required in the bound ledger. In addition, a printout of the log shall be made each month for review, correction if necessary, and signature by the SAC and the TFC by the tenth of each month. A file of the printouts shall be maintained at the regional office and at the task force.

### **601.11 THEFT OR LOSS OF INVESTIGATIVE FUNDS**

Funds drawn by an agent shall be secured at all times. Should a theft or loss of state funds occur, the SAC shall immediately initiate an investigation into the circumstances and notify their Bureau Chief who shall immediately notify the Deputy or Assistant Director. The results of the investigation shall be forwarded to the Chief, accompanied by the SAC's evaluations and recommendations. The Chief shall immediately forward a copy of the results of the investigation and recommendations to the Deputy or Assistant Director. If the funds were stolen, a report to the appropriate police agency shall be made by the SAC. In order to replenish lost funds, SAM §§ 8072 through 8072.3 shall be followed.

When a loss or theft of funds drawn by an agent occurs, and after review of the facts surrounding such theft or loss it is determined that the agent responsible for the funds was negligent, DLE may initiate action to discipline the agent and/or recover from him/her the amount of the lost funds.

When the loss or theft of funds drawn by a non-DOJ officer assigned to a task force occurs, and after review of the facts surrounding such theft or loss, if it is determined that the officer responsible for the funds was negligent, DLE may initiate action to recover from him/her the amount of lost funds. The Bureau Chief shall ensure that a report of the incident is submitted to the officer's parent agency for appropriate action.

Each task force shall develop unit specific manual language establishing policies and procedures for addressing the theft or loss of non-state investigative funds.

## **601.12 RECOVERED MONEY RECEIPTS**

When Investigative Funds have been expended and the expended funds are recovered, the recovery shall be documented by use of an RMR form (JUS 806) within ten days. Instructions for completion and routing are on the form. The voucher that documents the expenditure of State funds that are subsequently recovered shall be updated to reflect the recovery of the funds and the RMR number.

SACs and TFCs shall maintain an RMR log book. This log book shall show the RMR number, date money was recovered, amount of money recovered, date the SAC or TFC received the funds, defendant's name, investigation number, date of disposition, and name of the agent submitting the recovered funds. Upon receipt of the money, the SAC/SAC or TFC shall personally count the currency and maintain it in a completed evidence envelope.

Upon final disposition of cases in which money has been held, the money shall be converted to a check or money order and forwarded to DAS Accounting immediately as indicated in the instructions on the RMR.

The SAC may delegate this responsibility to TFCs for State money recovered by the task forces, but shall approve the procedure used. The TFC shall neither delegate this responsibility to another office or agency nor store the recovered money with another agency.

RMRs are assigned by the SAC to TFCs for State money recovered by task forces. Completed forms shall first be routed through the regional office SAC before being sent to DAS. A copy of the RMR shall be retained in a regional office file, to be replaced with a copy of the completed disposition RMR when sent to DAS along with the currency.

Each task force shall develop unit-specific manual language establishing policies and procedures addressing the recovery of non-State investigative funds.

## **601.13 *Not subject to disclosure due to agent safety concerns***

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## **602 Sexual Assault Victims' DNA Rights**

### **602.1 PURPOSE AND SCOPE**

Consistent with Penal Code § 293 and the Sexual Assault Victims' DNA Bill of Rights (Penal Code § 680), this policy will establish a procedure by which sexual assault victims may inquire about and be provided with information regarding the status of any DNA evidence in their case, their right to confidentiality and other rights afforded by law.

### **602.2 INVESTIGATION CONSIDERATIONS**

#### **602.2.1 VICTIM CONFIDENTIALITY**

Agents investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting agent shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code 293 § (a) and (b)).

- a. Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293 (d) and (f)).
- b. Except as authorized by law, members of this department shall not publicly disclose the address of any victim of a sex crime (Penal Code § 293(c)).

#### **602.2.2 OFFICER RESPONSIBILITY**

When an agent becomes aware of an alleged sex offense, he/she shall immediately notify the local law enforcement agency having jurisdiction. The agent may assist the local agency with its investigation, if requested.

### **602.3 TESTING OF SEXUAL ASSAULT EVIDENCE**

- a. Subject to available resources and other law enforcement considerations which may affect the ability to process and analyze rape kits or other sexual assault victim evidence and other crime scene evidence, any member of this department assigned to investigate a sexual assault offense (Penal Code §§ 261, 261.5, 262, 286, 288a or 289) should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g).

- b. If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue is not going to be analyzed within two years of the crime, the assigned agent shall notify the victim of such fact in writing within no less than 60 days prior to the expiration of the two-year period (Penal Code § 680(d)).

#### **602.4 VICTIM NOTIFICATION OF DNA STATUS**

- a. Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, the assigned agent may inform the victim of the status of the DNA testing of any evidence from the victim's case.
  - 1. Although such information may be communicated orally, the assigned agent should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
  - 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or victim's designee regarding the status of any DNA testing.
- b. Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights:
  - 1. To be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
  - 2. To be informed whether or not the DNA profile of the assailant developed from the evidence has been entered into the Department of Justice Data Bank of case evidence.
  - 3. To be informed whether or not there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Database, provided that disclosure would not impede or compromise an ongoing investigation.
- c. Provided that the sexual assault victim or victim's designee has kept the assigned agent informed with regard to current address, telephone number and email address (if available), any victim or victim's designee shall, upon request, be advised of any known significant changes regarding the victim's case.
  - 1. Although such information may be communicated orally, the assigned agent should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. No agent shall be required to or expected to release any information which might impede or compromise any ongoing investigation.

## **602.5 DESTRUCTION OF DNA EVIDENCE**

Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680 and only in compliance with Policy 804.

## **606 Asset Forfeiture Policy**

### **606.1 PURPOSE AND SCOPE**

The Division's complete procedures for handling forfeited or seized assets and seizing assets for forfeiture consideration in the form of currency, real estate, automobiles, boats, aircraft, or any other items of value may be found in the DLE Asset Forfeiture Manual, which is available on the Intranet.

### **606.2 ASSET SEIZURE AUTHORITY**

Health & Safety Code § 11470 provides for the forfeiture of any currency and real and/or personal property that represents proceeds from, or was used to facilitate, narcotic activity in violation of the Health & Safety Code. The offense(s) must involve the manufacture, distribution, transportation for sale, sale, possession for sale, offer for sale, offer to manufacture, or conspiracy to commit certain Health & Safety Code violations.

Health & Safety Code § 11488(a) specifies that any peace officer having probable cause may seize all moneys, negotiable instruments, securities, vehicles, boats, airplanes or other things of value which are forfeitable pursuant to Health & Safety Code § 11470 (e) or (f).

**608 Not subject to disclosure due to agent safety concerns**

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## **615 Interaction with Prisoners and Defendants**

### **615.1 PURPOSE AND SCOPE**

This policy governs employee recommendations regarding, and intercession on the behalf of, prisoners and defendants.

### **615.2 RECOMMENDING ATTORNEYS OR BAIL BONDSMEN**

No employee shall, in an official capacity, recommend to any suspect, defendant or prisoner, either directly or indirectly, the employment of any specific person or firm as an attorney or bail bondsman. If such a request is made, the employee may provide a telephone directory, if available, to the requester.

#### **615.2.1 RECOMMENDING BAIL**

Employees may make bail recommendations only with the approval of regional management and in accordance with Penal Code § 1269c.

### **615.3 INTERCEDING FOR DEFENDANTS**

No employees shall intercede on behalf of a defendant to obtain a complaint rejection, a reduction in charges, or the dismissal of charges without first consulting with, and obtaining the approval of, the prosecutor.

Contact for this purpose shall be made only with the approval of regional management. No employee shall use his/her official capacity to intercede for a defendant facing charges that do not have a direct correlation to the employee's official duties. Refer to Policy Manual § 600.2.

### **615.4 DISCUSSING PROSECUTION ACTION**

No employee shall make commitments to a prisoner or his/her counsel regarding the prosecution action to be taken without the prior approval of regional management and, if the prisoner is a confidential informant, in conformance with Policy Manual § 608.

**617 Not subject to disclosure due to agent safety concerns**

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## **700 Department-Owned and Personal Property**

### **700.1 PURPOSE AND SCOPE**

Department employees are expected to properly care for Department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or Department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

### **700.2 CARE OF DEPARTMENTAL PROPERTY**

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of Department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- a. Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any Department-issued property or equipment assigned for their use.
- b. The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- c. Except when otherwise directed by competent authority or required by exigent circumstances, Department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- d. Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- e. In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

#### **700.3.1 REPORTING REQUIREMENT**

The responsibility to report lost, stolen or damaged Department property falls to the employee to whom the item was issued or, in the case of pool equipment, the employee who was using the item at the time of the loss, theft or damage. A verbal report shall be made to the employee's

immediate supervisor as soon as circumstances permit. Immediately upon discovery of the loss or theft of any Department property, the employee shall notify the appropriate local law enforcement agency and request a report.

- a. A written report shall be submitted within 48 hours.
  1. A copy of the police report, if any, shall be attached.
- b. The supervisor shall carefully review the circumstances surrounding the loss, theft or damage and shall submit a memorandum to the Deputy or Assistant Director, via his/her chain of command, that shall include an outline whether the loss, theft or damage was the result of apparent negligence or misuse and indicate the need for replacement.
  1. A copy of the employee's memorandum and police report, if any, shall be attached to the supervisor's memorandum.
- c. The lost, stolen or damaged item may be replaced with the Deputy or Assistant Director's approval.
- d. The employee's supervisor will notify him/her if the loss, theft or damage is determined to have been caused by his/her negligence or misuse.

This policy applies to all Department property, including but not limited to vehicles, firearms, control devices, uniforms, identification cards, badges, credit cards, personal communication devices and IT equipment, and is in addition to the Department's reporting requirements found in DOJAM § 11280 et seq.

The theft of any personal property from a DOJ facility should be reported to the CHP; the Deputy or Assistant Director, Bureau Chief, and Facilities Protection Unit should be provided with copies of the CHP's report.

### **700.3.2 REPORTING THEFT, EMBEZZLEMENT OR FRAUD**

Employees are expected to safeguard state assets such as evidence, information and funds. All incidents of actual or suspected theft, embezzlement, or fraud occurring on DOJ property shall be reported, through the employee's supervisor, to the Bureau Chief verbally within 24 hours of discovery. Such incidents include but are not limited to embezzlement of state funds, theft or loss of evidence, obtaining or distributing confidential or sensitive materials or information without permission, and making improper payments such as bribes or kickbacks.

A memorandum detailing the incident shall be submitted to the Deputy or Assistant Director, via the Bureau Chief, within 48 hours of discovery. The memorandum shall describe the missing item(s), the location of the incident, how it was discovered, and any supporting evidence. The

employee's bureau will conduct the preliminary review and forward the results to the Deputy or Assistant Director, who will determine any further action.

## **700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER**

Agents and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- a. A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- b. A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

### **700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY**

If employees of another jurisdiction cause damage to real or personal property belonging to the State, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before the employee goes off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Bureau Chief.

## **700.5 ACQUISITION OF PROPERTY**

Property shall be acquired in accordance with established State and Department purchasing procedures, which may be found in DOJAM § 11100 et seq., or the alternate methods of acquisition outlined in § 700.5.1. Each supervisor is expected to evaluate the operational necessity of the item(s) being acquired prior to granting approval.

### **700.5.1 ALTERNATE METHODS OF ACQUISITION**

Equipment may occasionally be acquired through methods other than the regular purchasing process.

- a. Equipment may be obtained through an order of the appropriate court of jurisdiction provided the equipment obtained shall be used in the furtherance of an investigative and/or enforcement effort.

- b. Firearms may be accepted under the following conditions:
1. The firearm is needed by BFS for its reference collection and approved by the Bureau Chief. The regional manager shall submit a memorandum to bureau headquarters explaining the need for the weapon, and requesting permission to acquire the weapon. If the Bureau Chief approves the acquisition, he/she will respond in writing to the laboratory and a copy of his/her response will be forwarded to the DLE Firearms Officer. If the request is approved, the regional manager is responsible for ensuring that the proper court orders are obtained to transfer ownership of the firearm to the DOJ and the firearm is added to AMS.
  2. The firearm meets the Division's policy requirements set forth in § 312 (and, if a shoulder weapon, § 432) and is approved by both the DLE Firearms Officer and the Bureau Chief. The SAC will submit to the Bureau Chief a written request that explains in detail why the firearm is needed. The Bureau Chief shall submit his/her approval to the DLE Firearms Officer. If the DLE Firearms Officer and the Bureau Chief disagree regarding the suitability of the firearm, the Deputy or Assistant Director will be the final deciding authority on whether the firearm will be accepted. If the request is approved, the SAC is responsible for ensuring that the proper court orders are obtained to transfer ownership of the firearm to the DOJ.
  3. The firearm is needed by the DLE Firearms Officer for familiarization purposes. The DLE Firearms Officer may request that firearms that do not meet the requirements of the Division's policy be accepted for this purpose. A written request shall be submitted to the Deputy or Assistant Director and shall explain in detail why the firearm is needed. If the request is approved, the Firearms Officer is responsible for ensuring that the proper court orders are obtained to transfer ownership of the firearm to the DOJ. Any firearm that is accepted for this purpose shall be maintained by the ATC in its armory.
- c. Requests to place any acquired item, other than a firearm, into permanent state service shall be directed, in writing, to the appropriate Bureau Chief. The request shall include a description of the equipment, model and serial number, condition of the item, source and location of the item, an estimated date to take legal possession of the item, and recommendation as to the potential use of the item. If approved by the Bureau Chief, the request should be forwarded to the program's purchasing staff to obtain DOJ and Department of Finance (DOF) approval. All acquired items must be approved by the DOF before they are put into use.
- d. Gifts to the Division or an individual bureau require the approval of the Director, the DOF, and the Department of General Services before they may be accepted. Refer to DOJAM § 11231, SAM § 8634 and the DOF's website (<http://www.dof.ca.gov/fisa/bag/gifts>) for complete gift acceptance procedures and prohibitions.



- e. No person in their official capacity as a DOJ employee shall obtain or accept any item, including weapons, for their personal use or ownership.

## **700.5.2 POOL EQUIPMENT**

Each facility will maintain a pool of equipment for use by personnel. The pool may include radio, optical, photographic, and any other equipment deemed necessary to carry out the functions of the division.

Pool equipment shall be used properly, in the intended manner, and in accordance with applicable laws, regulations, and/or policies. When an employee uses an item of pool equipment, he/she is responsible for the security of that item until it is returned to the equipment pool.

## **700.5.3 ATTRACTIVE EXPENDABLES**

Each facility will maintain a supply of attractive expendables (i.e. batteries, film, etc.) for the use of all employees.

## **700.5.4 INDIVIDUALLY ASSIGNED EQUIPMENT**

When a sworn position is vacated or filled, the SAC is responsible for ensuring the agent's equipment, credit cards, and other related items are inventoried; that appropriate items are retained, reissued, and/or returned to headquarters; and that all manual and automated files are updated.

Whenever an employee transfers or separates, his/her equipment and credit card records shall be reconciled against what has been issued as indicated on his/her Individually Assigned Equipment Inventory form (JUS 1444). A package containing the signed JUS 1444, an Internal Transfer of Location of Equipment form (JUS 111), the returned equipment (if any), and any other supporting documentation for lost or damaged items shall be forwarded to bureau headquarters within five days of the date of the equipment reconciliation. A copy shall also be retained by the Property Controller, TFC, or person in charge of equipment for inventory control.

## **700.5.5 STANDARD COMPLEMENT OF EQUIPMENT**

Each agent shall be issued a standard complement of safety, protective, and investigative equipment. This equipment, which the agent is required to have available for duty at all times and is authorized to retain when transferring within the Division, consists of the following:

- a. Duty weapon/holster

- b. Web gear
- c. Ballistic helmet
- d. Ballistic vest
- e. Handcuffs and case
- f. Flex cuffs
- g. Raid cap
- h. Raid jacket
- i. Badge with holder
- j. Credentials
- k. ASP baton with holder
- l. Binoculars
- m. Camera
- n. Tactical uniform pants, shirts (long- and short-sleeved) and boots
- o. Hearing protectors
- p. Mesh jersey
- q. Equipment bag
- r. Cell phone
- s. Personal Trauma Kit (PTK)
- t. Clip-on DOJ identification card
- u. Flashlight
- v. Shooting glasses
- w. Critical Incident Manual
- x. Portable radio and charger (if assigned) (does not transfer with agent)
- y. OC Aerosol canister and holder

- z. Tape recorder
- aa. V-line home safe
- ab. Foul weather jacket
- ac. Two magazines for each handgun

Additional investigative and/or safety equipment may be issued to personnel assigned to programs with specialized needs. This type of equipment remains with the facility when the agent to whom it was assigned transfers to another location/bureau.

All DOJ-issued equipment shall be maintained by the personnel to whom the equipment is assigned and shall be in proper working order at all times.

### **700.5.6 BUSINESS CARDS**

Business cards should be made available only to those employees who need them as an integral part of their job. Regional managers are responsible for determining which employees should be supplied with business cards. The following three business cards are the only business cards authorized for employees of this division:

- a. The standard one-color, blue-ink business card printed by the Office of State Publishing features the Department logo in the upper right hand corner and is available to all staff.
- b. The business card printed by the DOJ Print Shop is the standard blue-ink business card with the Department logo in gold. This business card is available to sworn and non-sworn managers only.
- c. The business card printed by the Association of Special Agents is available to all members of that association, at the member's own expense.

### **700.6 PROPERTY CONTROL**

The regional manager is responsible for designating a property custodian, generally a Property Controller or TFC, to perform for that office the duties specified in DOJAM § 11221. The BMFEA personnel responsible for purchasing are identified in the BMFEA Directory of Services, which is available on the shared drive.

The property custodian must receive training and authorization from DAS to access the Asset Management System (AMS), which is used to track and generate labels for all non-expendable property valued at \$500 or more, regardless of the method by which the property was acquired. Instructions and procedures regarding property control and the use of AMS are found in DOJAM

§ 11200 et seq. and the AMS Property Custodian and Vehicle Coordinator Manual, which is issued by DAS to each AMS user.

The property custodian shall maintain an accurate listing of all property for which he/she is responsible. When property is acquired, the property custodian shall make the appropriate AMS entries, properly label the item(s), add the item(s) to the office's inventory list, ensure that the correct object code(s) have been used, ensure that the decal/asset and serial numbers are recorded on the purchase order documents, and forward those documents to the DAS Accounts Payable Unit.

### **700.6.1 INDIVIDUALLY ASSIGNED EQUIPMENT INVENTORY**

When equipment is issued to an employee, the employee's supervisor is required to complete a JUS 1444. Each year thereafter, the supervisor shall inspect the serviceability and physically inventory every item listed on the JUS 1444 during the employee's annual performance appraisal. The driving records and license statuses for all DLE employees who drive state or personal vehicles on official business shall be reviewed when the inventory is conducted. It is the responsibility of the employee to initiate an update of the JUS 1444 form whenever the employee's assigned equipment changes. JUS 1444 forms shall be maintained by the property controller, TFC, or person in charge of equipment.

### **700.6.2 REGIONAL OFFICE/LABORATORY EQUIPMENT INVENTORY**

Each regional manager is responsible for ensuring that an equipment inventory is completed and documented annually. The inventory shall include all equipment maintained by that regional office/lab, including but not limited to IT equipment, furniture, investigative pool equipment, equipment on loan from other sources, and state-owned pool equipment. This inventory excludes employee-assigned equipment. The person conducting the inventory shall obtain a copy of the inventory list(s) and/or files, and shall physically inspect each item listed to ensure that the information is accurate. Inventory list(s) and/or files shall be updated upon completion of the inventory. The results of this inventory shall be documented by memorandum via the chain of command to the Bureau Chief by the person who conducted the inventory. The memorandum shall include the date(s) of the inventory, the name of the individual who conducted the inventory, any discrepancies found during the inventory, and the steps taken to resolve any discrepancies.

Regional office and task force inventories shall also include all radio equipment, including mobile radios, portable radios, sirens, body wire receivers, base stations, scanners, spare batteries, and satellite phones. Radio equipment shall be listed separately from non-radio equipment on the inventory list(s). The property custodian shall forward a copy of the memorandum and annual radio equipment inventory list(s) to the RCU for verification.

### **700.6.3 TASK FORCE EQUIPMENT INVENTORY**

It is the responsibility of each TFC to ensure that an annual equipment inventory is completed and documented. The inventory shall include all state and non-state equipment, and shall be conducted in accordance with the guidelines set forth in § 700.6.2. The results of this inventory shall be documented by memorandum via the chain of command to the Bureau Chief by the person(s) who conducted the inventory. The memorandum shall include the date(s) of the inventory, who conducted the inventory, any discrepancies found during the inventory, and the steps taken to resolve any discrepancies.

### **700.6.4 POOL EQUIPMENT SIGN-OUT LOG**

A sign-out log shall be maintained for all non-expendable state-owned equipment pool items. The log will include the DOJ decal number, a description of the item, the printed name and signature of the employee receiving the item, the date taken, expected date of return, actual date of return, and any comments. The log shall be retained for one calendar year from the date of activity.

### **700.6.5 ATTRACTIVE EXPENDABLES SIGN-OUT LOG**

A sign-out log shall be maintained for each office/lab's supply of attractive expendables. The log will include a description of the item(s), the printed name of the employee taking the item(s), the date, and the quantity taken. The log shall be maintained for a period of one calendar year from the date of activity.

### **700.6.6 ASSIGNED EQUIPMENT DURING EXTENDED ABSENCES**

If an employee goes on leave (i.e., military, maternity, etc.) or 4800 time for 30 days or more, all assigned equipment and credit cards, with the possible exception of employee credentials, duty weapon and cell phone, shall be collected by the employee's Assistant Chief or regional manager and reconciled against the employee's JUS 1444. The Assistant Chief or regional manager shall note on the employee's JUS 1444 the date the items were collected, sign the form, and provide a copy to the employee. The employee's equipment shall not be issued to other personnel, but shall be maintained separately so that it can be reissued to the employee upon his/her return.

An agent's duty weapon, credentials and cell phone may remain in the possession of the agent at the discretion of the Bureau Chief, taking into consideration the nature of the leave, the length of the absence, and any physical limitations as they relate to the safety of the agent and the public. An agent whose duty weapon is subject to collection under this policy may request an extension of 14 days from the date he/she became aware that his/her absence would exceed 30 days. The purpose of this extension is to allow the agent time to purchase and/or qualify with an off-duty weapon before the agent surrenders his/her duty weapon. Any request for an extension shall be submitted in writing, via the chain of command, to the employee's Bureau Chief.

At such time as the employee returns to full-duty status, his/her equipment and credit cards shall be reissued to him/her. A new JUS 1444 identifying all assigned equipment, including credentials and badges, shall be completed when the equipment is reissued. Exceptions to this policy require prior written approval by the appropriate Bureau Chief.

## **700.7 MAINTENANCE**

It is the responsibility of regional management to ensure that all necessary maintenance and/or calibration is performed on non-expendable equipment as required by the manufacturer and to document that maintenance in the appropriate maintenance/repair log. An equipment maintenance/repair log that lists the decal number, serial number, name of the item, date the item was submitted for maintenance/repair, date the item was returned to service, and name of the person performing or arranging for the work shall be maintained for each piece of non-expendable equipment.

## **700.8 PROPERTY TRANSFER**

Equipment may be transferred within the Department in accordance with this policy and DOJAM § 11241 or to another State agency in accordance with § 11242. Special conditions applicable to the transfer of IT and radio equipment are as follows:

- a. Contact the Technical Assistance Center (TAC) (by telephone at 1-866-775-4400 or by sending an email to [TAC@doj.ca.gov](mailto:TAC@doj.ca.gov)) prior to relocating or loaning IT equipment.
  1. If the IT equipment is relocated within a unit or work area no paperwork is required.
  2. If the IT equipment is being transferred to another unit or location, a JUS 111 must be completed and forwarded to the DOJ Property Controller with a copy to the DCJIS/HDC IT Support Unit.
  3. If the IT equipment is being loaned to another division, bureau or task force, a written agreement is required. The written agreement shall include the names of both the loaning and receiving units along with the make, model, serial number, and DOJ decal number of the equipment being loaned. The reason for the loan, date the loan will begin, and approximate date of return shall be clearly stated and agreed upon by both parties. The signed agreement shall be forwarded to the DLE IT Coordinator along with a Hawkins Data Center Service Request form (JUS 350A). The Coordinator shall forward copies of these documents to DAS.
- b. The RCU handles all transfers, both permanent and temporary, of radio equipment.
  1. A request to exchange a mobile radio or siren may be made by the DGS local area radio technician. The RCU will provide the necessary equipment.

2. The RCU maintains an inventory of surplus radio equipment that can be used for temporary loans for emergency or special operational needs. A formal written request shall be submitted via the chain of command to the Office of the Director.
3. When an agent position becomes vacant, the portable radio equipment shall be returned to the RCU.
4. Requests to permanently transfer radio equipment shall be submitted via the chain of command to the Office of the Director. The transferring and receiving units shall comply with DOJAM § 11241. A transfer shall be considered incomplete if any of the items considered part of the radio equipment (i.e., microphones or control heads) are missing. The involved units assume responsibility for receiving and shipping all parts and equipment. Replacement costs for missing parts will be billed to the unit that shipped the equipment.

### **700.8.1 INTRA-DIVISION PROPERTY TRANSFER**

When property is transferred within the Division, an Internal Transfer of Location of Equipment form (JUS 111) is required. It is the responsibility of the transferring Property Controller, TFC or person in charge of equipment to ensure that the JUS 111 is completed and signed by both the transferring office and the receiving office personnel.

In the event that an agent position allocation is permanently transferred to another DLE facility, all equipment, including vehicle and radio, shall transfer with the position. Transfers of this nature between bureaus shall be negotiated on a case-by-case basis subject to final approval by the Bureau Chiefs.

### **700.8.2 INTRA-DIVISION EQUIPMENT LOAN**

In special circumstances, a transferring employee may be authorized to take credit cards and/or other equipment from the standard complement to his/her new assignment. These items shall be considered "loaned" to the receiving facility. Loans of this nature shall be requested by regional management and approved by the appropriate Bureau Chief in advance and documented with a memorandum maintained in the equipment file. Monthly inquiries shall be initiated by the regional manager or designee until the loaned equipment and/or credit cards are returned, replaced, or appropriate paperwork is received to cancel the cards. The person making the inquiries shall sign and date the memorandum each month when he/she completes the inquiry.

## **700.9 PROPERTY SURVEY**

The only legal method to remove worn out, broken, lost, stolen, destroyed, obsolete, or surplus property from the Department's inventory is through the survey process outlined in DOJAM §§ 11250 and 11251. The survey process for vehicles is set forth in DOJAM § 112113.

Regional offices and task forces are not authorized to survey radio equipment. If regional management believes a radio equipment item may be subject to survey, the item shall be inspected by the RCU to determine the condition of the equipment and the cost-effectiveness of repair. If the RCU determines the radio equipment is irreparable or the cost of repair would be excessive given the life expectancy of the equipment, the RCU will coordinate the survey process. The RCU maintains documentation for surveyed radio equipment.



## **702 Personal Communication Devices**

### **702.1 PURPOSE AND SCOPE**

The use of Department-issued personal communication devices is subject to the Department's Telecommunications Systems and Services policy, found in DOJAM Section 6, Chapter 3 and Administrative Bulletin 10-11.

## **704 Vehicle Maintenance**

### **704.1 PURPOSE AND SCOPE**

Employees are responsible for assisting in maintaining department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

Regional management shall ensure that individually assigned vehicles and pool vehicles are maintained in accordance with the requirements found on the Automobile Maintenance Record form (STD 271), in the Office of Fleet Administration (OFA) State Fleet Handbook, and in the DOJAM.

### **704.2 DEFECTIVE VEHICLES**

When a Department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to the employee responsible for that facility's vehicles so that he/she may arrange for repair.

#### **704.2.1 VEHICLE SURVEY PROCEDURES**

Vehicles may be surveyed if it is cost-effective to do so, but only with the approval of regional management and in accordance with the procedures detailed in DOJAM § 112113. The regional manager shall send a memorandum to the Division Vehicle Coordinator listing the vehicle's year, make, model, asset number, E number, license plate number, ending mileage, and the reason for survey. The Division Vehicle Coordinator will process the request. If the Department and the DGS Fleet Inspector approve the survey request, the Division Vehicle Coordinator shall forward the approved Property Survey Report form to the requesting office. The requesting office shall contact the RCU to arrange to have the communication equipment (radio/siren/alarm) removed from the vehicle. The requesting office must also remove the vehicle license plates and send them to the DOJ Vehicle Coordinator. Once the communication equipment and license plates have been removed, the vehicle shall be disposed of in accordance with DOJAM § 112113 and the OFA State Fleet Handbook.

## **706 Vehicle Use**

### **706.1 PURPOSE & SCOPE**

The Department utilizes state-owned motor vehicles in a variety of applications operated by Department personnel. In order to maintain a system of accountability and ensure state-owned vehicles are used appropriately, regulations relating to the use of these vehicles have been established. The term "state-owned" as used in this section also refers to any vehicle leased or rented by the state.

### **706.2 USE OF VEHICLES**

The use of state-owned vehicles by members of this division shall be in strict compliance with applicable state laws, rules, and regulations. In addition to this policy, individuals using Department vehicles shall adhere to all requirements included and incorporated by reference in DOJAM §§ 14500-14596.

Refer to the DOJAM for the Department's complete policies and procedures regarding vehicle home storage, monthly mileage logs, accidents, maintenance and repair.

#### **706.2.1 POOL VEHICLES**

Pool vehicles may be used only in the conduct of State business, pursuant to Government Code § 19993.1. Personnel assigned to routine scheduled field duties shall notify the appropriate staff member for assignment of a pool vehicle. Each office/lab shall maintain a log to be used to sign out pool vehicles. If the employee exchanges vehicles during the shift, the new vehicle number shall be entered into the log.

The property controller or other employee responsible for that facility's vehicles shall ensure the pool vehicle log indicating personnel assignments and vehicle numbers is completed as required and maintained for a minimum period of two years.

A Mileage Travel Log (STD 273) is stored in the glove box of each pool vehicle. When an employee uses a pool vehicle, he/she shall make a full entry for that trip on the STD 273 in accordance with DOJAM § 14536. At the end of each month, the property controller or other employee responsible for that facility's vehicles shall ensure that each pool vehicle's STD 273 is processed according to the procedure outlined in § 706.3. In the event a non-sworn pool vehicle has been driven 18 or more days in a month, he/she shall promptly forward a scanned copy of the STD 273 to the Division Vehicle Coordinator a scanned copy of the mileage log must be attached to the vehicle record in AMS.

### **706.2.3 UNDERCOVER VEHICLES**

Unmarked units, if not assigned to an individual employee, shall not be used without first obtaining approval from the respective unit supervisor.

### **706.2.5 AUTHORIZED PASSENGERS**

Personnel operating Department-owned vehicles shall not permit persons other than State employees or persons required to be conveyed in the performance of duty or as otherwise authorized to ride as a passenger in their vehicle.

### **706.2.6 PARKING**

State-owned vehicles should be parked in their assigned stalls. Individually-assigned vehicles should be parked in a garage or private driveway, not on the street, while at the employee's residence. If a vehicle containing a shoulder weapon is parked at an employee's residence, the vehicle shall be parked and the shoulder weapon secured in accordance with Policy Manual § 432.9.

Personal and State equipment and other such items shall be locked in the trunk of the vehicle, the doors shall be kept locked, and the alarm system shall be activated at all times when the vehicle is unoccupied. Voyager cards shall not be left inside parked vehicles.

### **706.2.7 INSPECTIONS**

The interior of any vehicle that has been used to transport any person other than an employee should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized items have not been left in the vehicle.

### **706.2.8 USE BY OTHER LAW ENFORCEMENT AGENCIES**

The use of Department vehicles by members of other law enforcement agencies may be authorized by regional management when all of the following criteria are met:

- a. The use of the vehicle will be in conjunction with an investigation being conducted by the DOJ or a regional task force.
- b. The other agency has no vehicle available which will meet the needs of the investigation.
- c. The use of the vehicle will be under the direction of DOJ personnel.

Such utilization of the vehicle shall be limited to actual investigative activities. Use for routine administrative duties or work to home transportation is not authorized. Regional management

shall ensure that all local agency drivers complete the state Monthly Travel Log (STD 273) and that the monthly mileage is entered into the AMS by the seventh day of each month in accordance with DOJAM § 14536. Gas and oil purchased with DOJ credit cards shall be purchased by DOJ personnel only.

In the event a non-DOJ operator is involved in a vehicle accident, regional management shall be notified and, when feasible, will respond to the scene. They shall ensure reporting of the accident in the prescribed manner.

Use of DOJ vehicles by other law enforcement agencies shall be kept to a minimum. Non-peace officers are prohibited from driving vehicles equipped with undercover plates, mobile radios, and/or sirens unless directed to do so by a SAC for specific purposes such as delivering the vehicle to a repair facility when the vehicle is "out of service" as an enforcement vehicle.

### **706.3 ASSIGNED VEHICLE AGREEMENT**

State-owned vehicles assigned to personnel for their use within their job assignment may be used to transport the employee to and from their residence for work-related purposes.

Vehicles may be individually assigned to DLE personnel who meet one of the following criteria:

- a. Special Agents, SASs and SACs with continuing field enforcement responsibilities directly relating to investigation of actual or suspected violations of the law.
- b. Sworn Assistant Bureau Chiefs and above.
- c. Personnel who can justify actual need for an individually assigned vehicle as established by the DOJAM § 14534.

The assignment of vehicles is at the discretion of the Director. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time. Assigned vehicles remain with their respective regional offices/labs; when an employee transfers, the assigned vehicle shall be returned to the regional manager for reissuance.

Personnel with assigned vehicles shall maintain the vehicle's monthly STD 273 in accordance with DOJAM § 14536 and submit the completed STD 273 for supervisory review. The white copy of the completed STD 273 log shall be turned in to the property controller for processing no later than the fifth day of the month. The property controller or other individual responsible for that facility's vehicles shall enter the information from the STD 273 into AMS no later than the seventh day of the month.

### **706.3.1 VEHICLES SUBJECT TO INSPECTION**

All State-owned vehicles are subject to inspection and or search at any time by a supervisor and no employee assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

### **706.4 *Not subject to disclosure due to agent safety concerns***

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

### **706.4.1 KEYS**

Personnel assigned a permanent vehicle shall be issued keys for their respective vehicle. The loss of any assigned key shall be promptly reported in writing through the employee's chain of command.

### **706.6 MAINTENANCE**

- a. Each employee is responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicle.

- b. Employees shall make daily inspections of their assigned vehicle for service/maintenance requirements and damage.
- c. Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to employees under their command to ensure the vehicles are being maintained in accordance with policy.
- d. Routine maintenance and oil changes shall be done in accordance with the Automobile Maintenance Record form (STD 271).
  - 1. All maintenance will be coordinated by the property controller or other employee responsible for the facility's vehicles.
  - 2. Vehicles requiring warranty service shall be taken to the nearest authorized dealer after receiving clearance from a supervisor.
  - 3. Each year, during the annual review of the individually assigned equipment inventory and vehicle, the supervisor shall verify that the STD 271 for the assigned vehicle is current and that all required maintenance has been performed. The supervisor shall make a notation on the Individually Assigned Equipment Inventory form (JUS 1444) indicating that the vehicle maintenance log is up to date.

### **706.6.1 ACCESSORIES AND/OR MODIFICATIONS**

No modifications, additions or deletions of any equipment or accessories shall be made to the vehicle without written permission from the Bureau Chief or designee.

### **706.6.2 RADIO EQUIPMENT REPAIR**

The Property Controller or person in charge of equipment shall coordinate the repair of mobile radio equipment, sirens, backflashes (rear warning lights) and vehicle alarm systems. A list of DGS Radio Maintenance Shops (RMS) shall be provided to the employee to whom the vehicle is assigned. The employee is responsible for making the appointment and bringing the vehicle to the RMS. The RMS determines whether the equipment can be repaired. If necessary, the RCU will provide replacement equipment to the RMS and the old equipment will be returned to the RCU.

The Property Controller or person in charge of equipment shall notify the RCU if the newly-installed equipment malfunctions and shall notify the Vehicle Coordinator if the vehicle is damaged during the installation.

Each Property Controller or person in charge of equipment shall maintain no more than five red lights for replacement purposes. When a red light is broken, a replacement red light shall be

installed immediately and the broken red light shipped to the RCU. The RCU will repair the red light or recommend replacement if it cannot be repaired.

## **706.7 ACCIDENT DAMAGE, ABUSE, AND MISUSE**

DOJAM § 14590 et seq., SAM § 2430, and the OFA State Fleet Handbook set forth the procedures to be followed when an employee is involved in an accident.

The employee involved in the collision shall complete the State's vehicle accident forms (STD 270 and STD 274) using the vehicle's E number. If the employee is incapable, the supervisor shall complete the forms.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the supervisor.

An administrative investigation will be conducted to determine if there is any vehicle abuse or misuse. If it is determined that misuse or abuse was a result of negligent conduct or operation, appropriate disciplinary action may result.

## **706.8 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempted from incurring toll road charges. Pursuant to the nonrevenue policy of the toll roads, law enforcement agencies responding to an emergency or incident on the toll roads, while on duty, are exempt from paying the toll. Commuting, or returning after an emergency does not qualify for this exemption and personnel using State owned vehicles are subject to the toll charge. To avoid unnecessary toll road violation charges, all employees operating a State owned vehicle upon the toll road shall adhere to the following:

- a. All employees operating a State-owned vehicle for any reason other than an initial response to an emergency shall stop and pay the appropriate toll charge. Employees may submit for reimbursement from the State for any toll fees.
- b. All employees passing through the toll plaza or booth during a response to an emergency shall draft a memo to their respective SAC within five working days explaining the circumstances.

## **706.9 TRAFFIC CITATIONS**

Any employee who receives a driving or parking citation while operating a State vehicle shall personally ensure that a proper disposition is made as soon as possible. The driver shall notify his/her supervisor no later than 24 hours after receiving the citation.



The supervisor shall notify his/her Bureau Chief via the chain of command no later than 24 hours after the supervisor was notified about the traffic citation. The Bureau Chief will notify the Deputy or Assistant Director as soon as possible, but no later than 24 hours after he/she is notified.

The employee shall personally pay the fine or appear in person at the designated place, or request that an official letter of explanation be written for regional management's signature and directed to the proper agency.

When the Division Vehicle Coordinator receives a letter from the DMV indicating that a citation has been issued and a traffic bureau is seeking to identify an undercover license, the Division Vehicle Coordinator shall send a memorandum to the driver of that vehicle. The driver shall be required to submit a memorandum to his/her manager, with a copy to the Division Vehicle Coordinator, explaining the reason the citation was issued and the reason it was not properly cleared. This memorandum shall also document the final disposition of the citation.

## **706.10 VEHICLE COORDINATOR**

The Division Vehicle Coordinator in the Office of the Director oversees the Division's vehicle fleet. In addition, regional management shall appoint a property controller or other employee to be responsible for the following:

- a. Maintaining the regional office/lab vehicle inventory.
- b. Controlling and ensuring the maintenance of all pool, surveillance, and specialized vehicles.
- c. Coordinating vehicle surveys with the Division Vehicle Coordinator when needed.
- d. Maintaining all required files relating to regional office/lab vehicles.
- e. Providing input to bureau headquarters and the Division Vehicle Coordinator regarding vehicle purchases.

## 707 Exemplar Firearms

### 707.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for the acquisition, handling, storage and destruction of exemplar firearms by the BOF. Exemplar firearms may be fired, examined, compared to unidentified firearms, and used by BOF agents in reverse sting operations. This policy does not apply to BFS exemplars, which are maintained in accordance with the BFS Quality Management System.

#### 707.1.1 DEFINITIONS

The following definitions are provided for the purposes of this policy:

**Custodian** - A BOF SAS chosen to maintain the integrity of an exemplar collection.

**Exemplar** - A firearm that is maintained in a reference collection for educational and investigative purposes.

**Firearm** - Refers, in this policy only, to any firearm or firearm accessory, legal or clandestine, original or improvised.

### 707.2 POLICY

The BOF is authorized to establish collections of exemplars that may be useful and relevant to the mission of the BOF.

The custodian of an exemplar collection may expand the collection by retaining firearms that are no longer needed as evidence, received from other law enforcement agencies, or voluntarily surrendered by members of the public. If a firearm was seized pursuant to a court order, the custodian must obtain a court order to retain the firearm as an exemplar. Exemplars should be chosen based upon training needs and/or the individual firearm's unique characteristic(s).

When a firearm is added to the exemplar collection, the custodian shall update AFS to reflect that the firearm has been retained for official use, assign a unique identification number, and attach a completed Evidence Identification Tag to the exemplar. As exemplars may be used in reverse sting operations, they should not be visibly or permanently marked in any way; rather, the identification number and any other markings or labels should be added to the Evidence Identification Tag.

The custodian shall maintain a binder or other file containing a photograph, AFS printout, identification number, and a copy of the court order (if any) for each exemplar in the collection. When an exemplar is destroyed, AFS shall be updated to reflect the destruction and a copy of the destruction order shall be placed in the file.

In addition, the custodian shall maintain a paper or electronic log which shall include, but not be limited to, as much of the following information as is available for each exemplar:

- a. Identification number
- b. Make
- c. Model
- d. Serial number, if applicable
- e. Originating case number
- f. Location in the vault
- g. Date acquired
- h. Date destroyed

### **707.3 STORAGE AND SECURITY**

Exemplars shall be stored in a vault that meets the security criteria detailed in Policy Manual § 379.8.4. Access to the vault shall be limited to the custodian and his/her SAC.

### **707.4 REMOVAL FROM THE VAULT**

A sign-out log shall be kept in the exemplar vault. The following information is required whenever an exemplar is removed from the building and/or the possession of the custodian:

- a. Date removed
- b. Date returned
- c. Name and title of the person removing the exemplar
- d. The exemplar's make, model and assigned identification number

Before an exemplar may be removed from the vault for use in a reverse sting operation, the SAC's written approval must be obtained by the agent(s) wishing to use the exemplar and provided to the custodian.

### **707.5 INVENTORY**

The regional manager is responsible for ensuring that an inventory of the exemplar collection is conducted annually. This may be incorporated into the annual equipment inventory required by Policy Manual § 700.6.2. If the exemplar inventory is conducted separately, the results shall be documented in a memorandum submitted, via the chain of command, to the Bureau Chief by

the person who conducted the inventory. The memorandum shall include the date(s) of the inventory, the name of the individual who conducted the inventory, any discrepancies found during the inventory, and the steps taken to resolve any discrepancies.

## 802 Communication Operations

### 802.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

#### 802.1.1 FCC COMPLIANCE

California Department of Justice radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

#### 802.1.2 RESPONSIBILITY

The Radio Communications Unit (RCU) establishes purchasing standards and maintenance policies for, provides assistance with, and tracks all DLE radio equipment. "Radio equipment" is any device that must comply with Federal Communications Commission specifications and/or emits radio frequency energy. This includes, but is not limited to: portable radios, mobile radios, scanners, body wire receivers, base stations, repeaters, consoles, satellite phones, vehicle tracking transmitters, specialized video equipment, and any accessory that is integrated or interfaced with the above mentioned radio equipment. Accessories include, but are not limited to portable radio batteries, antennas, battery analyzers, siren systems, emergency warning light systems, undercover audio systems, radio control switch boxes, vehicle alarm systems, and hands-free cell phone kits.

### 802.3 RADIO COMMUNICATIONS

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow agents know the status of agents, their locations and the nature of cases.

#### 802.3.1 *Not subject to disclosure due to agent safety concerns*

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### **802.3.2 UNIT DESIGNATOR CUSTODIAN**

The RCU shall be the custodian of the DOJ unit designator database and is responsible for:

- Ensuring the unit designator database is kept current.
- Disseminating the current list to the DOJ Command Center and other appropriate DOJ personnel.

The Unit Designator Custodian is responsible for:

- Issuing unit designators to sworn personnel.
- Maintaining the unit designator list for their specific regional office.
- Submitting a current unit designator list, via e-mail, to the RCU by the 5th of each month.

### **802.4 BASE STATION RADIO INSTALLATION**

The RCU shall be informed during the planning stages of any new facilities that will require a base station radio (regional offices, task forces, and regional laboratories). The RCU requires at least six months prior to the planned operational date of the facility to accomplish the following:

- a. Obtain a Federal Communications Commission license for the radio site.

- b. Ensure the lease agreement permits the installation of a radio antenna on the roof of the facility.
- c. Obtain a floor plan of the facility showing the location of radio operator's desk.
- d. Provide DGS sufficient time to engineer and install the radio system.

## **802.5 PORTABLE RADIO REPAIR**

The Property Controller or person in charge of equipment shall coordinate the repair of portable radio equipment after contacting the RCU to determine what actions, if any, are required.

- a. The entire radio must be shipped to the RCU for:
  - 1. Erroneous display messages
  - 2. Loose battery bracket
  - 3. Weak or no transmission or reception
  - 4. Broken radio case
  - 5. Programming problems
  - 6. Reassignment of radio to another DLE Facility
- b. The radio need not be shipped to the RCU for:
  - 1. Broken antenna
  - 2. Lapel microphone and/or earphone malfunctions
  - 3. Reassignment of radio within the same DLE facility
  - 4. Battery problems, unless the battery:
    - a. No longer holds a charge
    - b. Is overheating
    - c. Case is broken

The RCU coordinates repair and tracking of portable batteries and/or accessories. If requested, the RCU will supply a loaner radio, if one is available, to the DLE facility to be used while the assigned radio is being repaired.



## 804 Property and Evidence

### 804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

### 804.2 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm.
- Personal property of an arrestee not taken as evidence.
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons)).

**Found Property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted. This type of property shall be turned over to the local law enforcement agency having jurisdiction in the area.

**Evidence Custodian** - The Property Controller, Special Agent, or task force agent responsible for recording and storing evidence seized by agents of a regional office or task force, including chemical and drug samples, money, jewelry, and other easily converted items of value. The SAC/TFC of every regional office and task force shall designate one Evidence Custodian and one Alternate Evidence Custodian (Alternate). With the exception of Property Controllers, probationary employees shall not be assigned as Evidence Custodians or Alternates.

**Evidence Tracking Program** - The program used by the regional office to log and track evidence. For DLE personnel, this will be either the Evidence Automated Tracking System (EATS) or the CIMS Evidence Tracking Application. BMFEA personnel utilize the BMFEA Property Report form (MCF 015), which is scanned into ProLaw when completed; no other tracking program is used.

## 804.2.1 PROPERTY RECEIPT

The DLE Property Receipt form (DLE 234) is available on the Intranet. The BMFEA Property Report carbon form (MCF 015) is available at each regional office. The pink copy of the MCF 015 serves as the property receipt.

### a. Seized Property:

1. When property is seized, a property receipt (DLE 234 or MCF 015) must be completed, signed, and a copy given to the person from whom the property was taken or in whose possession the property was found. The receipt shall include the investigation/matter number, date of activity, name of individual from whom the property was seized, the address of that individual or the location from which the property was seized, the evidence item number, a complete description of the property (including serial number(s)), exact location where found, and the printed name of the receiver. In addition, the receiver's signature, the printed name of the witness and the witness' signature are required on the DLE 234.
2. If the property was taken from a vacant residence or otherwise unoccupied structure, the copy of the property receipt shall be posted in plain sight on or near an entryway to the structure.
3. At outdoor sites, such as rural clandestine laboratory or marijuana grow sites, the property receipt shall be posted on a prominent landmark such as a tree or wooden post at or near the access point to the site.

### b. Released or Transferred Evidence:

1. A completed property receipt, as described above, is required every time evidence seized by DLE or BMFEA personnel is released to another agency or transferred from the custody of any DLE or BMFEA facility or task force office. This includes circumstances when evidence used at a hearing is retained by the court after the hearing is concluded.
2. A property receipt is also required when transferring evidence to a BFS laboratory or any other criminalistics laboratory for analysis. It is the responsibility of the releasing individual to furnish a copy of the property receipt to the Evidence Custodian. The Evidence Custodian shall enter the information into the evidence tracking program and the Chain of Custody sheets.

### c. Distribution:

1. DLE 234
  - a. Each original DLE 234 shall be placed in the applicable investigation file.

- b. A copy of the DLE 234 for all released or transferred evidence shall be given to the Evidence Custodian for placement in the Released or Transferred Evidence File.

- c. There are no exceptions to this policy.

2. MCF 015

- a. The original (white) copy is maintained in the Evidence Control Log in the evidence room. The reverse side is printed with the chain of custody. Make a copy of the front page of the white copy and file with Return to Search Warrant as a complete property seizure inventory.

- b. The goldenrod carbon copy remains with the evidence or in the evidence folder.

- c. The pink carbon copy is used as the property receipt at the seizure site.

### **804.3 PROPERTY HANDLING**

Each bureau is responsible for the storage of all evidence seized as a result of its investigations. Each regional office shall have a secure evidence vault, defined as a space that meets the requirements of Policy Manual § 379.8.4.

Task forces that have custodial responsibility for their evidence, either on- or off-site, shall comply with the requirements of this section. However, task forces may store evidence with member agencies provided the agreement with the member agency is included in the MOU. Upon accepting custody of the evidence, the member agency assumes responsibility for the security and documentation of the evidence.

At the earliest practical time, but no later than five working days after its seizure, all evidence shall be submitted to the evidence custodian for placement in the evidence vault. In the absence of the evidence custodian, the evidence shall be placed in a secure temporary evidence locker.

Any employee who first comes into possession of any property, shall retain such property in his/her possession until it is properly tagged and placed in the designated temporary evidence locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence. Refer to Policy Manual § 804.3.4 for alternative storage locations.

This section prohibits the storing of evidence, monies, firearms, found property, or seized assets in desks, vehicles, personal lockers, etc.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the item(s).

All documents requiring signatures shall include the individual's printed name and date. No initials shall be used unless specifically authorized.

Each item of evidence shall be assigned an individual evidence item number in CIMS. The number shall consist of the following:

- A three-digit number which reflects the specific report number in which the evidence is being documented.
- A second number set (maximum 3 digits) which identifies the specific evidence item number. These numbers shall be sequential.
- An optional third column is available which will accept free text data. This field is limited to three alpha or numeric characters. If nothing is entered in the third column, this will remain blank in the CIMS report. For example, evidence item number 020-001-s would be the first item of evidence which was documented in Investigation Report number 20.

Evidence shall be stored and handled as described in this section or in accordance with the Clandestine Laboratory Manual of Instruction and Procedure. The Evidence Custodian shall not accept any evidence item which has not been properly marked, packaged, and sealed as required by this section.

### **804.3.1 PROPERTY PROCEDURE**

Evidence should be packaged and stored as soon as practical. If the evidence custodian is not available or there is not enough time to put the evidence into the evidence vault before going off duty, the submitting employee shall store the evidence in a Temporary Evidence Locker. If the evidence custodian is available to enter evidence into the vault and time allows, the following guidelines shall be observed:

- a. Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- b. Mark each item of evidence with the seizing employee's initials and the date seized using the appropriate method so as not to deface or damage the value of the property.
- c. Complete an evidence/property label and attach it to each package or envelope in which the property is stored.

- d. The original property form shall be submitted with the case report. A copy shall be given to the Evidence Custodian, who will verify that all evidence has been received before the form is placed with the property in the evidence vault.

### **804.3.2 NARCOTICS AND DANGEROUS DRUGS**

All narcotics and dangerous drugs shall be packaged separately. Paraphernalia as defined by Health & Safety Code § 11364 shall also be packaged separately.

The agent seizing the narcotics and/or dangerous drugs shall either place them in the designated locker or submit them to the Evidence Custodian to be placed in the regional office evidence vault.

All chemical samples taken at clandestine lab sites by laboratory personnel shall be issued individual evidence item numbers, which will be detailed in the evidence section of the appropriate investigative report. It is the responsibility of the reporting agent to physically provide the Evidence Custodian or Alternate with a copy of the approved investigative report which details the seizure and movement of the chemical samples taken at the clandestine lab site. The Evidence Custodian or Alternate shall utilize the item numbers and the description listed in the evidence section of the report to make the appropriate entries into the evidence tracking program.

### **804.3.3 CHEMICALS AND CONTAMINATED OR EXPLOSIVE EVIDENCE**

Chemicals, including samples, and contaminated or explosive evidence must be stored in accordance with hazardous materials laws and local fire and health regulations. These types of evidence shall not be stored in a temporary evidence locker or the evidence vault. Chemicals may be stored for no more than two working days in a chemical locker approved by the Occupational Safety and Health Administration (OSHA) and the National Fire Protection Association (NFPA) before being transported to a DLE-contracted permanent chemical storage facility. These items shall be listed in the appropriate evidence tracking system. Offices requiring an exception to the two working days retention requirement must obtain permission in writing from the office of the respective Bureau Chief.

The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

### **804.3.4 BIOLOGICAL EVIDENCE**

A regional office or task force may occasionally need to store biological evidence (i.e. blood, saliva, semen, bone, body tissue, etc.) on their own premises. These evidentiary items should be properly packaged before they are accepted by the regional office or task force for storage.

All biological materials, and all items that may have been contaminated by biological materials, should be treated as biohazardous material and handled with universal precautions. Employees are expected to comply with the safety standards found in 8 CCR § 5193, which regulates occupational handling and storage of blood and other potentially infectious materials.

The laboratory should be consulted for guidance on appropriate storage conditions. The preferred storage condition for evidence with dried biological stains is frozen; however, there may be circumstances which warrant different storage conditions (e.g. size or condition of the item, circumstances of the case, etc.). Evidence with wet biological stains should be dried first, then properly packaged and frozen. Regional offices and task forces that store biological evidence shall have a secured, locked refrigerator and/or freezer, as needed, in the evidence vault that is designated for the sole purpose of storing biological evidence. Any refrigerator or freezer used to store biological evidence, and all evidence containers stored therein, shall be clearly labeled in accordance with 8 CCR § 5193(g)(1)(A).

Biological evidence that is secured in connection with a case must be retained, in a condition suitable for DNA testing, for as long as any person is incarcerated in connection with that case or until the conditions for early disposal set forth in Penal Code § 1417.9 are met. The BFS laboratory should be consulted to determine when biological evidence can be destroyed, and the evidence shall be transferred to the laboratory for destruction.

Refer to the BFS Physical Evidence Bulletins for biological evidence for additional information regarding the collection, packaging and storage of biological evidence.

### **804.3.5 STORAGE LOCATIONS**

#### **a. Temporary Evidence Lockers:**

1. The submitting agent shall ensure that evidence is not kept in a temporary evidence locker for more than 72 hours. The SAC/TFC may extend this requirement to a maximum of five (5) days. This shall be documented on the Temporary Evidence Locker Tracking Log (DLE 210).
2. The submitting agent shall complete a DLE 210 for each investigation in which evidence is stored in a temporary evidence locker. The submitting agent shall sign each log entry. Evidence from the previous investigation shall be transferred to the evidence custodian before storing evidence from another investigation. The DLE 210 shall be maintained on the exterior of the temporary evidence locker while the locker is in use and shall include the following information:
  - a. Investigation number and name.
  - b. Submitting agent's name.

- c. Evidence item number(s) and description.
  - d. Dates/times put in/taken out of locker.
  - e. Submitting agent's signature.
  - f. SAC's signature for time extension, if applicable.
  - g. Date given to evidence custodian and his/her signature. When the evidence is submitted to the evidence custodian, he/she shall file the DLE 210 in the Temporary Evidence Locker Tracking Log file.
3. The temporary evidence locker key shall be retained by the submitting agent until he/she and the evidence custodian jointly review the evidence. Never, under any circumstances, shall the evidence custodian have a key to a temporary evidence locker. The master key(s) shall be kept in the SAC/TFC's safe for emergency access.
  4. The evidence custodian shall enter all information into the evidence tracking program and print a copy of the evidence log and chain of custody sheet. The evidence custodian shall place the evidence into the evidence vault.
  5. The evidence custodian is not responsible for evidence placed in a temporary evidence locker. His/her responsibility begins when the evidence is placed in a container in accordance with Policy Manual § 804.3.4(b) and accepted for placement in the evidence vault.
  6. The evidence custodian shall not accept any evidence item which has not been properly marked, packaged, and sealed as required by this section.
- b. Evidence Vault:
1. Each regional office shall have a secure evidence vault as detailed in Policy Manual § 379.8.4.
  2. If a task force does not have such a vault, an outside storage locker may be used. The outside storage locker shall be equipped with an alarm system and security cameras that allow a complete view of the locker.
  3. Evidence vaults and outside storage lockers shall be accessed using the two-person access rule described in Policy Manual § 379.1.1.
- c. SAC/TFC Safe:

1. Small property items such as jewelry, artwork and other items that are easily converted to currency may be stored in the regional/task force office SAC/TFC's safe.
  - a. These items shall be documented in the safe log, photographed, and entered into the evidence tracking program.
  - b. The safe log shall be a bound ledger that reflects the date seized, date received, from whom received, investigation number, investigation title/ defendant's name, evidence item number, description/amount, date released by the SAC/TFC, name of the recipient, and disposition. All entries shall be made in black or blue ink.

### **804.3.6 RECOVERED INVESTIGATIVE FUNDS**

The unsealed container containing the recovered investigative funds shall be submitted to the SAC or the TFC accompanied by a Recovered Money Receipt (RMR) (JUS 806). Under no circumstances shall funds be placed in an evidence container with other types of evidence.

Upon receipt of the funds, the SAC or TFC will count the funds, check the serial numbers of the funds against the list of pre-recorded serial numbers or photocopies, seal the evidence container, and sign and date the container in the presence of the submitting agent.

The RMR shall be signed by the SAC or TFC and copies shall be distributed in accordance with the instructions on the RMR. The funds shall be maintained in the SAC's or TFC's safe. An entry shall be made listing the recovered funds in the Safe Log, the evidence tracking program, and the RMR log. Details regarding the seizure and submission of the funds shall be included in the required DLE or task force investigation report. When the investigation is adjudicated, the funds shall be disposed of in accordance with instructions printed on the back of the RMR.

When investigative funds from any other law enforcement agency are recovered during an investigation, the seizing agent shall adhere to the above procedures with the following exceptions:

- a. The other agency will be notified in addition to the SAC or TFC.
- b. The serial numbers of the seized funds will be checked against the other agency's list of pre-recorded serial numbers.
- c. The funds shall be maintained in the SAC's or TFC's safe only until the funds can be returned to the appropriate agency pursuant to applicable laws.
- d. When the funds are returned to the other agency, a DLE 234 shall be completed, signed by the receiving person, and distributed as required by Policy Manual § 804.2.1.



## **804.4 PACKAGING OF PROPERTY**

Certain items require special consideration and shall be packaged separately as follows:

- a. Narcotics and dangerous drugs
- b. Firearms (ensure they are unloaded and packaged separately from ammunition)
- c. Property with more than one known owner
- d. Paraphernalia as described in Health & Safety Code § 11364 and Business and Profession Code § 4140
- e. Fireworks
- f. Contraband

### **804.4.1 PACKAGING CONTAINER**

Employees shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles. Paper evidence shall be packaged in clear, sealable plastic evidence bags issued by the Department.

An evidence label shall be securely attached to the outside of all items or group of items packaged together. In most cases, a DLE-issued, self-adhesive, pre-formatted label (produced by the Office of State Publishing) should be affixed to the container or item. Items such as firearms, large scales, computers, appliances, suitcases, etc. that do not fit into standard containers shall have a fully completed Evidence Identification Tag (BNE 1052) or label affixed to them. The tag/label shall be affixed so it can be easily read.

The following information shall be included on each evidence container or label:

- Investigation number
- Name of case agent
- Name of subject(s)
- Name of submitting agent
- Date of seizure
- Location/address of seizure

- County of jurisdiction
- Type of seizure (search warrant or no-search warrant)
- Evidence item numbers
- Detailed description of evidence
- Chain of custody
- Date given to evidence custodian

Task forces that book evidence into allied/member agencies shall follow that agency's evidence procedures.

### **804.4.2 PACKAGING CONTROLLED SUBSTANCES**

The agent seizing narcotics and dangerous drugs shall retain such property in their possession until it is properly weighed, packaged, labeled, and placed in the designated evidence locker. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the agent's report.

Controlled substances, with the exception of marijuana, shall be sealed in plastic, Kapak-type bags prior to being stored in evidence containers. Marijuana shall be packaged and sealed in paper envelopes or bags of appropriate size. Narcotics and dangerous drugs shall not be packaged with other property. A completed evidence label shall be attached to the outside of the container. The chain of evidence shall be recorded on this label.

### **804.4.3 FIREARMS**

All firearms shall be unloaded prior to being submitted to the Evidence Custodian. It is the responsibility of both the submitting agent and the Evidence Custodian to ensure that the firearm is unloaded and the zip-tie device is used to render the firearm inoperable.

Any ammunition seized with the firearm shall be placed in a separate container and labeled in compliance with Policy Manual § 804.4.1. The location of the ammunition shall be noted in part 12 (Comments) of the Evidence Identification Tag (BNE 1052) affixed to the source firearm. Each container of ammunition shall have a fully completed, DLE-issued, self-adhesive, pre-formatted label affixed to it. The label shall identify the location of the source firearm. The ammunition container shall be clearly marked as such and stored in a cool, dry location. The Evidence Custodian shall place the unloaded firearm and ammunition in the firearms portion of the evidence vault.

- a. Identification, Tagging and CLETS/NCIC Checks:

1. Firearms which are seized shall be marked for identification and have a fully completed Evidence Identification Tag (BNE 1052) attached. The firearms shall be checked by the case agent through CLETS and NCIC for status. If a firearm is found to be stolen, this information should be indicated in part 12 (Comments) of the BNE 1052 and entered into the appropriate automated system noting the reporting agency's name and investigation number.
  2. The agent running the CLETS/NCIC check will note on the BNE 1052 that a CLETS/NCIC check was made and the results of that check. The name of the person who conducted the check and the date of the check should be indicated in part 12 (Comments) of the BNE 1052. The status of the seized weapon(s) shall be included in the investigation report, either in the details or in the evidence list. A copy of the CLETS/NCIC printout shall be given to the Evidence Custodian who shall write the investigation number and the assigned evidence item number on the copy, and place the printout in the Firearm NCIC/CLETS/AFS File. The case agent shall place the original printout in the investigation file.
  3. The evidence custodian shall run another CLETS/NCIC status check of the firearm prior to its disposal to determine if the firearm was reported stolen subsequent to its seizure. The results of this check shall be indicated in part 12 (Comments) of the BNE 1052, along with the date of the check, and the name of the person who performed the check. The original copy of this CLETS/NCIC printout shall be placed in the investigation file and a copy retained by the Evidence Custodian for placement in the Firearm NCIC/CLETS/AFS File.
- b. Automated Systems Data Entry:
1. All seized firearms shall be entered in the CLETS AFS as "seized." Any seized firearm identified as stolen shall be entered in CLETS AFS as "located." Copies of the CLETS printout and the agency notification shall be placed in the investigation file and copies given to the Evidence Custodian for placement in the Firearm NCIC/CLETS/AFS File.
  2. Evidence custodians shall enter the firearms information into the evidence tracking program, indexing types of weapons and serial numbers and indicating whether the firearms were stolen.
- c. Local Agency Notification:
1. The case agent will ensure that the reporting agency is notified, by letter or teletype, that the stolen firearm has been recovered. The notification shall include the name of the case agent, investigation number, evidence item number, date of seizure, and a contact telephone number.

#### **804.4.5 DISPOSITION OF SEIZED FIREARMS**

Seized firearms shall not be sold or traded. Seized firearms must be returned to the rightful owner or designee, destroyed, or retained for official use by the DLE. This policy also applies to weapons seized pursuant to asset forfeiture. When seized firearms are no longer required as evidence, and upon receipt of a court order in the case of any firearm(s) that were seized pursuant to a court order, regional management shall ensure that the following steps are taken:

- a. If the firearm was reported stolen, return it to the reporting agency. The Evidence Control Log and chain of custody sheets shall note the agency receiving the firearm(s) as well as the date and time of such delivery. This notation shall also include the name, title, and employing agency of the person receiving the item(s). Upon delivery, a DLE 234 shall be prepared and signed. The DLE 234 shall be handled as required by Policy Manual § 804.8.
- b. If the seized firearm is personal property, comply with Policy Manual § 804.4.6, or destroy the firearm in compliance with Policy Manual § 804.5.4 if it cannot be returned.
- c. Dispose of firearms at least twice annually or more frequently if needed to decrease the inventory of firearms. The Evidence Control Log and Chain of Custody sheets shall be updated with the date of destruction, stamped "destroyed," and the entry shall be signed by the Evidence Custodian.
- d. If the firearm meets the requirements of Policy Manual § 312.2.1, the firearm may be retained by DLE. If so, the requesting regional manager or DLE Firearms Officer shall comply with Policy Manual § 700.5.1. The original court order, if any, shall be placed in the investigation file and a copy of the court order given to the Evidence Custodian for placement in the evidence vault file.
- e. All destroyed or retained firearms shall be entered accordingly into the CLETS AFS system by the Evidence Custodian. A copy of the CLETS AFS printout showing this information shall be placed in the investigation file and a copy retained by the Evidence Custodian for placement in the Firearm NCIC/CLETS/AFS file.

#### **804.4.6 RETURN OF SEIZED FIREARMS TO PRIVATE INDIVIDUALS**

When a private individual requests the return of a seized firearm, the SAC or TFC shall ensure the following procedures are implemented prior to the release of the firearm:

- a. The status of the firearm(s) shall be checked as required by Policy Manual § 804.4.3.
- b. The requestor shall be required to present a court order and documentation of ownership (i.e., sales receipt, bill of sale, notarized document relinquishing ownership of the firearm to him/her, etc.) that supports his/her claim to the firearm.

- c. The firearm shall not be released unless the requestor has been cleared by the BOF. However, it is not necessary to obtain a clearance from the BOF to deny the return of a firearm if there is confirmed information that the requestor is prohibited from possessing a firearm. Letters issued by the BOF notifying persons they are prohibited from possessing firearms will not have the gold Attorney General seal affixed to the face of the denial letter. The BOF will send copies of the prohibition letter to custodial agencies to retain in case files.
- d. The requestor shall be directed to contact the BOF for an eligibility check. Instructions and forms for obtaining a check can be obtained from the BOF web site: <http://ag.ca.gov/firearms/>. After completing its check, the BOF will send the requestor a letter that states whether any information has been found that prohibits him/her from possessing a firearm.
- e. If the BOF finds that the requestor is prohibited from possessing a firearm, the firearm shall not be released to the requestor. When the firearm cannot be returned, the firearm shall be disposed of as required by Policy Manual § 804.5.2 or 804.4.4.
- f. If the requestor is not prohibited from possessing a firearm and no other information is developed prohibiting return of the firearm, the firearm may be released to the requestor. This shall not occur until the requestor submits the original copy of the BOF letter affixed with the gold Attorney General seal, required court order, and documentation of ownership. The requestor shall also be required to show a valid identification (with photograph) of which a copy shall be made. A DLE 234 shall be completed, signed by the releasing DLE employee, a DLE witness, and the person receiving the firearm. The original DLE 234 and the original BOF letter with the gold seal, court order, documentation of ownership and identification shall be placed in the investigation file. Copies of these documents shall also be given to the Evidence Custodian who shall place them in the Evidence Release File and update the evidence tracking program and chain of custody.

#### **804.4.7 DISPOSITION OF STOLEN PROPERTY**

When agents, working with local law enforcement agencies, find property which has been reported stolen, the property shall be seized by the local law enforcement agency unless the property is evidence in support of an investigation. If no local agency is present and the property is seized by an agent, the property shall be treated as evidence and handled in compliance with this section.

- a. A CLETS "locate" entry will be made, the original printout placed in the investigation file, and a copy given to the Evidence Custodian for placement in the evidence vault file.

- b. It is the responsibility of the case agent to ensure that the agency that reported the theft is notified, by letter or teletype, of the recovered property. The notification shall include the name of the case agent, investigation number, evidence item number, date of seizure, a detailed description of the property, and a contact telephone number.
- c. Stolen firearms shall be released only in compliance with Policy Manual § 804.4.5. Unless the property is to be used for prosecution of a DOJ investigation, the property must be released to the reporting agency or rightful owner as soon as possible. If the property is to be used for the prosecution of a DOJ investigation, upon adjudication of the investigation, the property shall immediately be released to the reporting agency or owner. In either situation, appropriate entries shall be made in the evidence tracking program and on the chain of custody sheets. The DLE 234 shall also be obtained from the receiving agencies or individuals. The DLE 234 shall be handled as required by Policy Manual § 804.8.

#### **804.4.8 DISPOSITION OF CHEMICAL/PRECURSOR EVIDENCE**

Chemical or precursor evidence shall be disposed of by a licensed hazardous waste hauler and in accordance with the Clandestine Laboratory Manual of Instruction and Procedure. If the chemical or precursor evidence was obtained through a search warrant, then a court order for the destruction of those seized chemicals or precursors must be obtained prior to destruction. Within 30 days of the destruction, the case agent will file an affidavit with the court of jurisdiction as required by Health and Safety Code § 11479.5.

#### **804.4.9 CONTROLLED SUBSTANCES FOR TRAINING**

Pursuant to Health and Safety Code § 11367.5(a), the BI, with the prior approval of the Bureau Chief, may provide controlled substances to law enforcement agencies or regional office personnel for training purposes; however, the BI shall not provide controlled substances to civilian drug detection trainers. SACs who wish to maintain a stock of controlled substances for training purposes for use by either the regional office or by law enforcement agencies shall first submit a request in writing to the Bureau Chief. The request shall identify the type and specific amount/weight of each controlled substance to be placed into the office "training stock." All weights related to Controlled Substances for Training shall be recorded as net weights. Hazardous laboratory chemicals and hazardous precursors shall not be approved for use as "training stock."

- a. Only after written approval of the Bureau Chief may the SAC, with the appropriate court order(s), move the requested controlled substances into the office training stock. The movement of the controlled substances from evidence shall be documented on the chain of custody sheets and an entry shall be made in the evidence tracking program or the bound evidence log where appropriate. The controlled substance training stock shall be stored in the regional office evidence vault, separate from all other evidence. The Evidence Custodian shall maintain a Controlled Substances for Training file that

contains documents relating to the training stock. This includes DLE 234, court orders relating to controlled substances authorized for training purposes, copies of the written requests and the Bureau Chief's response.

- b. The Evidence Custodian shall maintain a Controlled Substances for Training Log in which the acquisition, movement, and final disposition of the training stock shall be documented. The log shall be a bound ledger. Entries in the log shall be made in chronological order and in ink. The log entries for each controlled substance placed in training stock shall contain the following: type of substance; amount/weight; date of acquisition; court order number authorizing the use of the substance for training; evidence item and investigation numbers from which the stock was obtained; the number of separate packages or containers of each substance; and the weight of each package or container. Separate pages in the Log shall be used for the different types of substances placed in stock.
- c. Requests by law enforcement agencies or regional office personnel to obtain controlled substances for training shall be forwarded by the SAC to the Bureau Chief for review and approval. The requests shall contain the name of the requesting agency; type and amount/weight of each controlled substance(s) requested; and type(s) of training for which the substance(s) will be used, i.e., canine training, community training, or law enforcement training. The maximum amount/weight provided shall be limited to the quantities specified in Section 804.4.9(b)(10). Controlled substances for training issued to other law enforcement agencies shall first be entered into the Controlled Substances for Training Log prior to being issued.
- d. Only after written approval of the Bureau Chief shall the SAC issue the controlled substance(s) to the requesting agency(s) or to office personnel. The Bureau Chief may, at his/her discretion, require the requesting agency or regional office personnel to obtain a court order prior to receiving the controlled substance(s).
- e. When controlled substance training stock is issued to regional office personnel or requesting agencies, the following information shall be entered on the Controlled Substances for Training Log: the date issued; name, signature, and agency of the person receiving the stock; type of substance; amount/weight and number of packages issued; the name/signature of the person issuing the stock; and remaining balance of the stock. When the training stock is issued, the regional office Evidence Custodian shall prepare a DLE 234 which shall contain the name, signature, and agency of the person receiving the stock; date issued; type, amount/weight and number of packages of each substance issued; and name and signature of the person issuing the stock. A copy of the DLE 234 shall be given to the person receiving the stock. The Evidence Custodian shall maintain the original DLE 234 in the Controlled Substances for Training file.
- f. When controlled substance training stock is returned to the Evidence Custodian, the agent returning the stock shall ensure the stock is weighed and the Evidence Custodian

visually inspects the controlled substance(s). The weighing and visual inspection shall be witnessed and entered into the Controlled Substances for Training Log. All controlled substance for training stock shall have a presumptive test performed before being returned to the vault. The Evidence Custodian shall enter into the Controlled Substances for Training Log the date of return; the name, signature, and agency of the person returning the stock; type, amount/ weight and number of packages of each substance returned; name and signature of the person receiving the stock; and balance(s) of the substance(s) in stock. If a signature is not legible, the person's name shall be legibly printed below his/her signature. When the training stock is returned, the regional office Evidence Custodian shall prepare a DLE 234 in duplicate which shall contain the name, signature, and agency of the person receiving the stock; date returned; type, amount/weight and number of packages of each substance returned; and the name, agency, and signature of the person returning the stock. The original DLE 234 shall be given to the person returning the stock. The Evidence Custodian shall maintain a copy of the DLE 234 in the Controlled Substances for Training File.

- g. When controlled substance training stock is subject to destruction, the regional office Evidence Custodian shall comply with Policy Manual § 804.5.2. After destruction of the stock, the Evidence Custodian shall enter in the Controlled Substances for Training Log the date of destruction, his/her signature, court order number (if necessary), type, amount/weight and number of packages of each substance destroyed, and the remaining balance.
- h. The Evidence Custodian shall inventory the controlled substance training stock every six months. The inventories shall consist of visually inspecting and weighing each type of controlled substance and comparing the results with the DLE 234s, court orders and the Controlled Substances for Training Log. The inventory shall be reported to the SAC by memorandum. The memorandum shall contain the date(s) of the inventory, the name(s) of the person(s) participating in the inventory, and the results. Problems found during the inventory and an explanation of the steps taken to resolve those problems shall also be detailed in the memorandum.
- i. Each regional office shall be allowed to retain or issue the following maximum amounts of controlled substances for use as "training stock":

<b>Controlled Substance</b>	<b>Maximum Amount/Weight</b>
Heroin	10 pounds
Cocaine	10 pounds
Methamphetamine	10 pounds
Opium	10 pounds
Marijuana	20 pounds
All Other Allowed Substances	No more than 56 grams or 100 dosage units



## **804.5 RECORDING OF PROPERTY**

The DLE Evidence Custodian/Property Controller receiving custody of evidence or property shall record the date the property was received and where the property will be stored in the evidence tracking program.

Each item of property shall be assigned an individual evidence item number in CIMS. The number shall consist of seven digits that indicate the report number associated with the evidence, the specific evidence item number and a free text data column.

- a. The evidence log shall contain the following information:
  1. Investigation number and name
  2. Address/Location of seizure
  3. Name of case agent
  4. Name of submitting agent
  5. Date of the seizure
  6. Court of jurisdiction
  7. Evidence Item number
  8. Detailed description of the item
  9. Location stored
  10. In/out/not received
  
- b. The Chain of Custody sheet shall contain the following information:
  1. Investigation number and name
  2. Case agent
  3. Evidence item number
  4. Date of seizure
  5. Date of submission to the evidence custodian

6. Date evidence is removed from the evidence vault
  7. Date the evidence is returned
  8. Purpose/location for the removal of the evidence
  9. Signature and date of all individuals removing or returning evidence
  10. All dates of submission, removal, and return shall be in chronological order.
- c. The Chain of Custody sheet shall show all movement of evidence beginning with the initial submission to the Evidence custodian. The chain of custody for items placed in temporary evidence lockers shall be documented as required by Policy Manual § 804.3.4.
  - d. Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of custody.

BMFEA SACs shall designate a SAS in each regional office to be responsible for identifying an Evidence Custodian, who will ensure that all evidence for which they are responsible is properly identified, marked and labeled. BMFEA case investigators shall log and place all evidence into the regional office evidence vaults. Evidence seized as a result of search warrants, undercover operations or other law enforcement activity shall be logged and booked into the evidence vault immediately upon receipt and return from the field activity. Whenever evidence is placed into or removed from the evidence vault, the investigator will fully document the transactions on the reverse side of the Property Report Form (MCF-015), labeled "Chain of Custody," in chronological order.

### **804.5.1 EVIDENCE VAULT FILES**

The Evidence Custodian shall maintain records of the activity of the evidence retained in the regional office or task force vaults. The evidence vault records shall be maintained in a secure, locked location for ten years from the last date of activity. These records shall consist of the following files:

- a. The Evidence Custodian shall maintain a file of completed Temporary Evidence Locker Tracking Logs. The logs shall be filed by year in case number order and shall be retained for ten years from the last date of activity.
- b. The Evidence Custodian shall maintain the evidence tracking program's Evidence Control Log, which consists of the Evidence Logs and the Chain of Custody sheets. The sheets shall be retained in binders filed together in investigation number order. Each binder shall contain no more than one calendar year of control logs. A task force's

Evidence Control Log may consist of a bound ledger, copies of evidence booking forms used as an evidence log, or automated evidence system printouts as documented in the Task Force Manual. The binders shall be securely maintained in the evidence vault.

- c. The Evidence Custodian shall maintain an inventory file of the memorandums and attachments sent to the SAC/TFC documenting the inventories of the evidence vault conducted by the regional office or task force. The memorandums shall include the dates of the inventories, the personnel involved in the inventories, the procedures used to conduct the inventories in accordance with Policy Manual § 804.8, the discrepancies found in the inventories and the procedures for addressing the discrepancies and their resolution.
- d. The Evidence Custodian shall maintain a destruction file that contains copies of all documentation relating to evidence/property destruction. This file shall include copies of all court orders relating to those destructions, and attached inventories and memorandums to the SAC/TFC. The evidence vault destruction records shall be maintained in a secure, locked location.
- e. The Evidence Custodian shall maintain a release file which contains copies of all documentation relating to released, returned or transferred evidence/ property. This includes copies of all court orders, property receipts, and other documents relating to those releases. The Release File shall be maintained in a secure, locked location.
- f. The Evidence Custodian shall maintain a Firearm National Crime Information Center (NCIC)/California Law Enforcement Telecommunications System (CLETS)/Automated Firearms System (AFS) file containing printouts, made at the time of seizure, of all firearms retained in the vault. This file may be contained within the same binder as the evidence logs. These printouts shall be given to the Evidence Custodian who shall file them by investigation number. The file shall also contain printouts of the status checks for firearms at the time of disposal and printouts showing all destroyed or retained firearms were entered accordingly into the CLETS/AFS system.
- g. The Evidence Custodian shall maintain a Controlled Substances for Training file that contains documents relating to the training stock. This includes the DLE 234, court orders relating to controlled substances authorized for training purposes, copies of the written requests, and Bureau Chiefs' responses.

## **804.5.2 DESTRUCTION OF CONTROLLED SUBSTANCE EVIDENCE**

When controlled substances are no longer required as evidence in the prosecution or appeal of an investigation, upon receipt of a completed CIMS Case Inquiry Report or a Case Disposition Report, an Evidence Destruction Agent Review form, and receipt of a court order, if necessary, the controlled substances shall be removed from the evidence vault and destroyed in accordance with Policy Manual § 804.5.4.

- a. Specified amounts of seized controlled substances may be destroyed without a court order in accordance with Health and Safety Code §§ 11479, 11479.1, 11479.2, and 11479.5. Within 30 days of destruction, the case agent shall file the required affidavit with the court of jurisdiction.
- b. When evidence items are destroyed, the destruction date and the Evidence Custodian's signature shall be entered on the chain of custody sheets and an entry shall be made in the evidence tracking program or in the bound evidence log where appropriate.
- c. When controlled substances (found evidence, medications of deceased persons, etc.) that have not been introduced in any court proceeding and are not to be used in any prosecution are turned over for destruction, a case number shall be drawn and a report documenting the evidence shall be written. The receiving individual shall complete a DLE 234 for the receipt of the items. This shall include the number of packages, weight of each package, color, and/or amount/number of units (plants, dosage units, etc.). The Evidence Custodian shall enter this information into the evidence tracking program. This type of material shall be destroyed without analysis.

### **804.5.3 DESTRUCTION OF SEIZED MATERIAL**

The case agent and prosecuting attorney will examine any material and paraphernalia seized by the DLE, when not seized pursuant to a search warrant, to determine evidentiary value. Material and/or paraphernalia found to have no evidentiary value shall, upon completion of a CIMS Case Inquiry Report or a Disposition Report and an Evidence Destruction Agent Review form, be destroyed or returned to the owner(s) within 90 days of the date the decision was made.

If the material or paraphernalia was seized pursuant to a search warrant, a combined search warrant release and destruction order shall be obtained prior to the release or destruction of the material or paraphernalia. The Evidence Custodian shall inventory the material or paraphernalia using the following information:

- a. Name of defendant.
- b. Investigation number(s).
- c. Evidence item number(s).
- d. Description(s) of the material.
- e. Date of seizure.
- f. Name of prosecuting attorney consenting to the destruction/return.

- g. The return shall be witnessed by an agent.

Following destruction or return of the material or paraphernalia, the date, time and place of release or manner of destruction shall be recorded on a DLE 234 and signed by the Evidence Custodian, recipient, and the witnessing agent. A copy of the property receipt shall be placed in the investigation file or, if no investigation was associated with the material or paraphernalia, in the release file. The destruction or release shall be entered into the Chain of Custody Sheets and an entry shall be made in the evidence tracking program or the bound Evidence Log where appropriate.

#### **804.5.4 DESTRUCTION PROCEDURES**

Evidence/Property destructions shall be conducted at least twice a year, or more frequently if needed, to decrease the inventory of evidence/property. Each bureau and its regional offices shall comply with the requirements of this manual in preparing and processing evidence/property for destruction. Task forces that have custodial responsibility, both on- and off-site, shall also conduct destructions as set forth in this manual.

- a. SACs/TFCs preparing for evidence/property destruction shall assign a destruction preparation team consisting of the Evidence Custodian, a SAS, and a Special Agent or task force agent who shall account for and prepare the evidence/property for destruction. At least two of the team members shall be present whenever controlled substance evidence is moved, verified and packaged.
- b. The Evidence Custodian shall receive completed CIMS Case Inquiry Reports or Case Disposition Forms documenting adjudicated investigations.
- c. From these completed dispositions, the Evidence Custodian shall prepare a list of adjudicated cases by case number and case Special Agent and/or SAS.
- d. The Evidence Custodian shall print and distribute an Evidence Destruction Agent Review from the evidence tracking program listing each adjudicated case for each case agent and/or SAS. The case agents and SASs shall, within 30 days, review and return the printouts verifying that the evidence listed is associated with fully adjudicated investigations and there are no pending appeals in which more than 151 days have elapsed since the judgments were rendered.
- e. The Evidence Custodian shall, upon receipt of the completed, signed, and dated Evidence Destruction Agent Review forms, prepare an adjusted list, if necessary, of evidence items subject to destruction. These forms shall be retained as source documents for the disposition of evidence.

- f. Based on the adjusted list(s), the destruction preparation team shall move the evidence subject to destruction from their storage locations to a defined area within the evidence vault for processing.
- g. The destruction preparation team shall inspect each item of evidence/property to be destroyed to ensure that it matches the Evidence Destruction Agent Review printouts and chain of custody sheets and that it is still in its sealed container. An agent shall assist and be present as a witness at all times when controlled substance evidence is being prepared and packaged for destruction.
- h. Once all the evidence/property to be destroyed is verified and accounted for, the Evidence Custodian shall obtain Court Order Attachment printouts from the evidence tracking program for all evidence/property to be destroyed. The Evidence Custodian shall use these printouts to prepare a court order requesting the destruction of the evidence/property. The court orders for the destruction of evidence shall be formatted in compliance of the requirements of the court of jurisdiction. The destruction order will be obtained from the appropriate court.
- i. After obtaining the destruction order, the destruction preparation team shall box all controlled substances in separate containers from the non-controlled substance evidence/property. All the evidence to be destroyed shall be placed in containers in chronological order by investigation and evidence item number beginning with controlled substances. The separate sealed evidence items (as listed on the destruction order) shall be identified on the lid of the container. Examples:
  - 1. Contains controlled substances from SA2004-00270, items 1 through 20 as listed on the destruction order.
  - 2. Contains non-controlled substance evidence from SA2004-00270, items 1 through 8 as listed on the destruction order.
- j. Each container shall be sequentially numbered (i.e., 1 of 12, 6 of 30, etc.), for each type of evidence (controlled substance or non-controlled substance evidence/property) and sealed with evidence tape. Each destruction preparation team member shall sign and date each sealed container.
- k. A separate master log of the controlled substance containers and non-controlled substance evidence/property containers shall be created by the Evidence Custodian and attached to the destruction order after the order has been signed by the appropriate magistrate. Any evidence/property that is too bulky to be placed in a container shall be sequentially numbered, labeled, and listed on the master log as a separate entry. The logs shall include the investigation and evidence item numbers. This master log shall be attached to the court order retained in the Evidence Destruction File.

- I. The Evidence Custodian shall prepare a memorandum that details the preparation process and verifies that the evidence/property listed on the destruction order is accounted for and prepared for destruction. The memorandum shall also explain in detail any discrepancies that were discovered during the preparation process, the steps taken to rectify those discrepancies, and any discrepancies that remain unresolved. The memorandum shall be signed by each destruction preparation team member and submitted to the SAC or TFC. The memorandum shall be maintained in the Evidence Destruction File for ten years from the date of destruction. If there are any unresolved discrepancies, the SAC shall forward a copy of the memorandum to the appropriate Bureau Chief, or the TFC shall forward the memorandum to the SAC with a memorandum explaining the steps taken to ensure that the discrepancies do not occur again.
- m. Prior to the actual date of destruction, the SAC or TFC shall randomly select and inspect at least ten percent of the sealed containers and verify that the contents match what is listed on the container label and the destruction order. If there are less than ten containers, at least one shall be selected at random and inspected. If one or more of the containers contain controlled substances, at least one such container shall be selected for inspection. If there are no discrepancies, no further inspection is required.
- n. If there are any discrepancies, every container shall be opened and physically compared to the information on the destruction order and master logs. The SAC or TFC shall account for all items listed on the order and logs. If the discrepancies cannot be resolved, the order and logs shall be amended to accurately reflect the contents of the container. The SAC or TFC shall also direct the Evidence Custodian to create a memorandum listing the discrepancies and the steps taken to resolve those discrepancies. Copies of this memorandum shall be forwarded via the Bureau Chief to the Director and Deputy or Assistant Director.
- o. On the date of the actual destruction, the SAC or TFC shall assign an SAS or agent other than the personnel who assisted with the creation of the destruction order and master logs to work with the Evidence Custodian. This team shall oversee the actual evidence destruction and ensure that all of the items on the destruction order and master logs are destroyed. The SAC or TFC may assign as many personnel as needed to effectively and efficiently complete the destruction.
- p. The containers shall be transported to the destruction site in a fully enclosed, lockable vehicle that is equipped with a working alarm system. Whenever containers are in the vehicle, the vehicle shall not be left unattended at any time. At the destruction site, the SAS or task force agent assigned to the destruction team shall physically account for each numbered, sealed container, and ensure that each container is kept under constant observation by DOJ or Task Force personnel until it is actually destroyed.

- q. If seized firearms are not destroyed in the same manner as controlled substances, the acceptable alternative method of destroying seized firearms is by shredding, melting, crushing, or cutting such that the firearms are completely inoperable and not repairable.
- r. Electronic waste shall be destroyed in conformance with California Code of Regulations Chapter 22 and Health and Safety Code Division 20, Article 10.
- s. Once the destruction is complete, the Evidence Custodian shall submit to the SAC or TFC a memorandum that identifies the members of the destruction team, and the date, time, method, and location of the destruction. The memorandum shall also address any problems that occurred and the manner in which the problems were resolved. The memorandum shall be co-signed by the SAS or task force agent assigned the task of actually witnessing the destruction of the evidence, and by each destruction team member. A copy of the memorandum, destruction order, and master logs shall be kept in the Evidence Custodian's destruction file for ten years from the date of the destruction.

#### **804.5.5 RELEASE OF EVIDENCE**

Pursuant to Penal Code § 1536, items seized pursuant to the service of search warrants (including monies, firearms, personal effects, and controlled substances) shall be released from the control of the Evidence Custodian only by order of the court. There are no exceptions to this policy.

Controlled substances may be released to another law enforcement agency only upon receipt of a court order. Copies of the court order shall be placed in the appropriate investigation file and in the evidence release file. The release shall be entered on the Chain of Custody sheets and an entry shall be made in the evidence tracking program or the bound Evidence Log where appropriate.

Upon the release of any evidence, a DLE 234 containing the defendant's name, investigation number, evidence item number(s), date and time of release, and a detailed description of the items being released shall be prepared by the Evidence Custodian, and signed by the Recipient, the Evidence Custodian, and a witness. The DLE 234 shall be distributed as required by Policy Manual § 804.2.1. The release shall be entered on the chain of custody sheets and an entry shall be made in the evidence tracking program or the bound evidence log where appropriate. A copy of the DLE 234 and appropriate court order should be placed in the investigation file or, if no investigation was associated with the evidence, in the evidence release file.

#### **804.5.6 RELEASE/DESTRUCTION OF PERSONAL PROPERTY**

Property which is unlawful to possess or that is contaminated shall not be released under any circumstances.



Personal items submitted to the evidence vault for safekeeping should be returned to their rightful owner. A DLE 234 describing the returned items in detail shall be completed and signed by the property owner, Evidence Custodian, and a witness. The DLE 234 shall be distributed as required by Policy Manual § 804.2.1.

After an investigation has been adjudicated and prior to destruction or release of personal property, including firearms which had been seized for evidentiary purposes, court orders authorizing the destruction or release shall be obtained as required. The Evidence Custodian shall send a certified letter to known parties/owners informing them that the items are available for release. The Evidence Custodian shall attempt to obtain the most current address for the parties/owners. If a party/owner is incarcerated, the letter shall be sent to the place of incarceration.

The Evidence Custodian shall hold the personal property items for 90 days and firearms for 180 days from the date the certified letter was received by the property owners as indicated on the certified mail return receipt. If no contact is made by the owners during this 90/180-day waiting period, the items shall be destroyed. A copy of the letter and the certified mail receipt shall be placed in the investigation file. If the personal property is a firearm, the firearm shall not be released to a private individual until the requirements of Policy Manual §§ 804.4.3 through 804.4.6 have been met.

In the event that the certified letter is undeliverable and no contact is made with the rightful owner, the personal property shall be considered abandoned. The property shall be held for 90 days and firearms shall be held for 180 days from the date the certified letter was returned as undeliverable. After the 90 day or 180 day waiting period, the items shall be handled in accordance with Penal Code § 1417.5 as follows:

- a. If the property is jewelry or other items of easily converted value, it shall be transferred to the appropriate county agency for sale to the public in the same manner provided by Government Code Title 3, Part 2, Chapter 5, Article 7 (commencing with § 25500) for the sale of surplus personal property (Penal Code § 1417.5(c)(2)).
- b. If the property is currency, it shall be handled in the following manner:
  1. If currency was seized by a task force, due diligence to find the legal owner must also be conducted. If the funds have not been claimed, the county treasurer shall dispose of this currency in accordance with Penal Code §§ 1417.5(c)(4) and 1420.
  2. If currency was seized by a regional office, the regional office Investigative Auditor shall file the necessary paperwork instructing DAS to transfer the funds to uncleared collections according to Policy Manual § 606.3.2.
- c. If the property is determined to have no value at public sale, it shall be destroyed (Penal Code § 1417.5(c)(3)).

- d. If the property is a firearm, see Policy Manual § 804.5.4 for disposal instructions.
- e. The returned certified letter shall be placed in the investigation file and a copy shall be given to the Evidence Custodian for placement in the evidence destruction file or release file.

## **804.6 PROPERTY CONTROL**

DLE uses an automated system to track all evidence seized and retained at DLE facilities during an investigation, which shall be maintained in each regional office by the Evidence Custodian/Property Controller. All other personnel have "read/inquire only" access to the system.

All items seized during a DLE investigation, including property, asset forfeiture items, chemical samples, photographs, and cassette tapes, that are to be stored by DLE shall be entered into the evidence tracking system. Entries shall accurately describe the item(s) seized. It is the responsibility of the reporting person to ensure that the description is consistent between the evidence section of the Investigation Report, the description on the container, and the description in the evidence log.

All entries made into the evidence tracking program shall accurately describe the item(s) seized. It is the responsibility of the reporting agent and his/her supervisor to ensure that the description of evidence is consistent between the evidence section of the investigation report, which details the seizure, the description on the evidence container, and the description in the Evidence Log. The evidence custodian shall complete the evidence tracking program's Evidence Entry Screen for every item accepted for placement in the evidence vault. The contents of the EATS Evidence Entry Screen are outlined in the EATS Manual. Upon completion of data entry into the evidence tracking program, one copy of the Evidence Log sheet and one copy of the Chain of Custody sheet shall be generated, which together comprise the Evidence Control Log. The submitting agent and evidence custodian shall each sign and date the Evidence Log sheet verifying the evidence submitted, no later than five working days from the date the evidence was seized. All Evidence Log sheets shall be filed in the Evidence Control Log binder along with the Chain of Custody sheets in investigation number order and shall be maintained in the evidence vault for ten years from the date of last activity.

No changes in layout or format can be made to this system by the regional offices without the prior approval from the Office of the Director. Suggested additions or modifications to the system shall be submitted in writing to the Office of the Director for approval. If a change is approved for implementation, all regional offices shall adhere to the change.

Once the evidence is put into the evidence vault the Evidence Custodian/Property Controller shall maintain a record of the activity of the evidence. The records shall be kept in a secure, locked location for ten years from the last date of activity.

Evidence seized and retained by the BMFEA is tracked using the MCF-015 form. All items seized during an investigation that are to be stored by BMFEA in the evidence vault shall be accurately described on an MCF-015. All MCF-015 logs shall be filed in the Evidence Control Log binder by year, in Matter ID number order, and shall be maintained in the evidence vault for ten years from the date of the last activity. .

### **804.6.1 TASK FORCE PROCEDURES/EVIDENCE SEIZED DURING JOINT INVESTIGATIONS**

Task force personnel shall comply with Policy Manual § 804.3.4 when using on-site temporary evidence lockers. Task force offices shall maintain a bound Evidence Control Log that includes the information required in Policy Manual § 804.3.4. The evidence custodian shall enter information in ink for all evidence retained on-site by the task force offices. The bound Evidence Control Log shall be maintained in the evidence vault for ten years from the date of the last activity. Task force offices that have automated evidence tracking systems may request approval to use hard copy printouts sequentially filed in a binder as Evidence Control Logs. Requests to use the printouts in lieu of the bound log shall be forwarded to the Office of the Director. Requests shall be accompanied by a written description of the proposed procedures, a sample of the proposed printouts and the proposed Task Force Manual changes documenting the automated system. The automated system shall not be approved unless it is able to collect the information required in Policy Manual § 804.3.4.

Once Office of the Director has approved the new procedures in writing, the TFC shall submit the proposed procedures to the Task Force Council or Executive Board for approval. When the procedures have been approved by the Council or Executive Board (i.e., minutes, memorandum, etc.), the automated evidence system may be implemented. As soon as practical, the TFC shall ensure the revised evidence procedures are incorporated into the Task Force Manual. The TFC shall also retain the OD and Council or Board's written approvals in the administrative files for the duration of the time the automated evidence system is in use by the task force office. When the printouts are used as evidence logs, the submitting task force agent shall sign and date each printout, verifying its accuracy.

Task force offices that retain their evidence with member agencies are required to maintain an evidence log. These task force offices are permitted to use copies of the local agency evidence booking forms as evidence logs. These forms shall be signed and dated by the submitting task force agent and filed sequentially by investigation number in a binder. It is the responsibility of the TFC to ensure that the task force's Evidence Control Log fully and accurately reflects all evidence booked with those agencies by the task force office. Submitting personnel shall obtain a receipt for all evidence/property delivered to a member agency for storage. If the accepting agency does not have its own receipt, a DLE 234 form shall be used.

## **804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

Prior to delivery to the BFS Regional Laboratory, the Evidence container (BFS 2) shall be completed in detail by the individual submitting the evidence. Controlled substances shall be hand-delivered, not sent by mail or courier. Any money shall be submitted in a separate BFS 2. Designated laboratory personnel shall acknowledge receipt by signing the DLE 234.

Regional offices/labs and task forces that use the services of other drug/crime labs (i.e., LA Sheriff's Department Criminalistics Lab) for any analysis or criminalistic work shall comply with the process set by that lab. Controlled substances shall be hand delivered, not sent by mail or courier. The receiving individual shall acknowledge receipt by signing the DLE 234.

When evidence is returned to a regional office/task force evidence vault in unsealed containers, the containers shall be resealed, signed, and dated by the submitting agent/criminalist and the Evidence Custodian. If the contents of the container differ from when they were originally checked out, the discrepancy shall be noted on the container, evidence log, chain of custody sheets, and in the evidence tracking program.

If the change in the contents is unauthorized, unexplained and appears suspicious or inappropriate, the submitting agent/criminalist shall prepare a memorandum to the SAC/TFC. If the SAC/TFC cannot immediately resolve the issue, he/she shall notify the Bureau Chief in writing within 24 hours. Further action concerning the issue shall be determined by the Bureau Chief. The memorandum to the SAC/TFC should contain the following information:

- a. Case number.
- b. Type of evidence.
- c. Original weight and/or number of packages.
- d. When and by whom the evidence was signed out of the evidence vault.
- e. Purpose for the removal of the evidence.
- f. Date the evidence was returned.
- g. Who returned the evidence.
- h. The discrepancies in the weight(s) or number of packages.
- i. Why the agent considers the discrepancy suspicious or inappropriate.
- j. Steps taken to resolve the issue.
- k. Results of efforts to resolve the issue.

### **804.6.3 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to agents for investigative purposes, or for court, shall be noted in the evidence tracking program, stating the date, time and to whom released.

The Evidence Custodian/Property Controller shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded in the evidence tracking program, indicating date, time, and the person who returned the property.

### **804.6.4 AUTHORITY TO RELEASE PROPERTY**

Bureaus shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

### **804.6.5 RELEASE OF PROPERTY**

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Pursuant to Penal Code § 1536, items seized pursuant to the service of search warrants (including money, firearms, personal effects, and controlled substances) shall be released only by order of the court. There are no exceptions to this policy.

Controlled substances shall be released to another law enforcement agency only upon receipt of a court order. Copies of the court order shall be placed in the appropriate investigation file and in the Evidence Custodian's release file. The release shall be entered on the Chain of Custody sheets and an entry shall be made in the evidence tracking program or the bound Evidence Log where appropriate.

Upon the release of any evidence, a DLE 234 containing the defendant's name, investigation number, evidence item number(s), date and time of release, and a detailed description of the items being released shall be prepared by the Evidence Custodian/Property Controller and witnessed. The release will be entered on the Chain of Custody sheets and an entry will be made in the evidence tracking program or the bound Evidence Log where appropriate. A copy of the DLE 234 and appropriate court order will be placed in the investigation file or, if no investigation was associated with the evidence, in the Evidence Release File.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms, which must be held for 180 days, and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

After an investigation has been adjudicated and prior to destruction or release of personal property, court orders authorizing the destruction or release shall be obtained as required. The Evidence Custodian/Property Controller shall send a letter to known parties/owners informing them that the items are available for release. If the party/owner is incarcerated, the letter shall be sent to the place of incarceration.

In the event that the letter is undeliverable and no contact is made with the rightful owner, the personal property shall be considered abandoned. After the proper waiting period, the items shall be handled in accordance with Penal Code § 1417.5.

An Evidence Custodian/Property Controller shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. Upon release, the proper entry shall be documented in the evidence tracking program.

#### **804.6.6 DISPUTED CLAIMS TO PROPERTY**

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

## **804.6.7 CONTROL OF NARCOTICS & DANGEROUS DRUGS**

The seizing bureau will be responsible for the storage, control, and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

## **804.7 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Evidence Custodian/Property Controller shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

### **804.7.1 EXCEPTIONAL DISPOSITIONS**

The following types of property shall be destroyed or disposed of in the manner, and at the time, prescribed by law unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code §§ 12028, 12029, 12251)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health & Safety Code § 11474, etc.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 12307)
- Gaming devices, which must be destroyed by mechanical means and disposed of at a location that can be viewed by the Evidence Custodian/Property Controller and witnessing agent to ensure that the devices are sufficiently demolished.

## **804.7.2 UNCLAIMED MONEY**

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than fifteen dollars (\$15.00), or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

## **804.7.3 MONEY, JEWELRY, AND OTHER EASILY CONVERTED ITEMS OF VALUE**

Money, jewelry, and other easily converted items of value shall be submitted to the SAC or TFC for storage in a safe at the regional/task force office, bank account, or safe deposit box at a banking institution. Money, jewelry, and other easily converted items of value submitted for storage shall be documented in the SAC/TFC's Safe Log, photographed, and the photographs handled as set forth in Policy Manual § 804.7.4, below. Items will also be listed in the appropriate evidence tracking system.

Prior to accepting custody of money, jewelry or other easily converted items of value, the SAC/TFC will verify the amount of the money or the amount and type of jewelry or other easily converted items of value that are being submitted. Verification will be noted by signing and dating the container in which the items were received. The container shall be sealed in the presence of both the SAC/TFC and the submitting agent.

## **804.7.4 PROCESSING OF PHOTOGRAPHS, VIDEO TAPES, DIGITAL MEDIA, AND AUDIO EVIDENCE**

- a. Agents, Criminalists, technical support staff and task force agents routinely utilize both still and video photographic devices during investigations. This photographic information may be recorded on celluloid-based negative film, magnetic tape or removable digital storage devices. Each media type requires different preparation and handling methods prior to being entered into the evidence system. The following procedures shall be used to prepare the below-described media forms.



1. Celluloid-based film is the traditional method of taking evidence photographs, i.e., 35 mm film. In this media type, the celluloid negative represents the original image(s) and, therefore, the "best evidence," no changes may be made to an original negative(s). Successive generations of paper prints are copies of the original. If used as evidence, the photo print must be supported by a properly documented and stored negative. Unprocessed negative film shall be kept away from all light and radiation sources. Processed negative film shall be packaged to ensure storage in a cool, dry and dark environment. Back up copies of negative film evidence made via a digital scanning device may be utilized to enhance clarity, contrast or make enlargements for visual presentation.
2. Magnetic video tape is the most commonly used media for video recording. VHS, BETA, VHSc or 8mm formats are forms of plastic tape embedded with magnetic metal fragments. This media type is durable, but highly susceptible to erasure by electro-magnetic fields. Copies may be made through readily available copying devices; however, the video tape produced by the video camera is the original and, therefore, the "best evidence." No tape splices, erasures or other electronic edits to the original evidence video tape may be made unless such action is taken to repair a damaged tape. Any enhancements or edits of information on the tape must be accomplished using a copy of the original. Video tape evidence should be stored in plastic video tape cases and not placed in close proximity with electro-magnets or electronic sources other than those used to play or copy the video tape.
3. Removable digital media storage devices such as the 3.5" floppy disc, mini disc, memory stick, compact flash or SD card are a few of the common digital storage devices utilized in modern digital cameras. The CD-R or DVD-R is then recognized as the original image if the following procedure is followed:
  - a. Prior to use, ensure the digital storage device is empty or reformatted. Upon completion of the photography, the removable device, if practical, such as a 3.5" floppy disc or mini disc can be booked as evidence in accordance with Policy Manual §§ 804.3 and 804.4.1. If it is not practical to book the original digital storage device, the following download procedure shall be used:
    1. Make sure the digital camera is in the power off position and connect the camera to a computer using the appropriate manufacturer's software/cable, or card reader, to download the contents of the digital storage media device onto the computer's hard drive.
    2. Once the images from the device are present on the hard drive, ensure they are in a "read only" format and make a CD-R or DVD-R of the data. Replay the CD or DVD to ensure the images were properly recorded from the hard drive.

3. Disconnect the camera from the computer and erase/reformat the camera's storage device for re-use.
4. The first generation CD-R or DVD-R created is now the original file of the image(s). The disc shall be marked with indelible marker on the label side with the following information:
  1. The photographer's name
  2. The date of photography
  3. The investigation number
  4. The evidence item number
  5. A description/name of items/persons photographed
  6. The name of the individual who created the CD/DVD if different than the original photographer
  7. The date of the CD/DVD's creation
  8. No alterations, edits or movement of any data is allowed on the original CD/DVD. Use of CD-RW (re-writeable) or DVD-RW for the production of an original digital file is prohibited.
5. The original shall be packaged in commercially available CD/DVD protective cases (jewel cases) similar to those used by the music and movie industry for retail sale. If image enhancement or alteration for use as an investigative or training tool is needed, copies of the original disc may be made. The only image alterations which can be made to a copy of an original disc held as evidence are those associated with enhancing clarity, contrast, or enlargement.
6. Images are recorded in digital still photography in three main formats. They are RAW, TIFF and JPEG. Copies of an original CD/DVD may be reformatted from RAW or TIFF to JPEG (a compressed format) to increase data storage capacity of discs or prepare images for commercial printing.
7. Digital video recordings shall be handled in the same procedural manner as digital still photographs. However, several different digital formats designed especially for video images are utilized with digital video cameras such as MPEG and AVI. DLE shall use the original file format imbedded in the camera used for the original recording for all subsequent copies unless the

department equipment becomes incompatible with the original format. In that case, any recognized video format available may be used that does not alter the visual representation of the digital file.

8. This evidence, the digital storage media described in this section, shall be packed and labeled as specified in Policy Manual § 804.4.1 and submitted into evidence in accordance with Policy Manual § 804.3.

#### 4. Documentation of Alterations Media Storage Devices

- a. When alterations (enhancements, enlargements, etc.) are made to a copy of an original disc or magnetic tape as noted in this Section that result in establishing additional investigative activity, probable cause, or will be used in court proceedings, the alterations shall be documented in an investigation report. The details shall include who conducted the alterations, the date(s) the alteration was conducted, the reason or purpose for the alterations, the name, title and agency of the requestor of the alteration if applicable, and the results of the alteration (additional investigative activity, probable cause, etc.).
  - b. The altered media storage devices shall be given an evidence item number and submitted into evidence. All repairs to media storage devices shall be documented in an investigation report detailing the need for the repair, who conducted the repair, the date(s) of the repair and the method of repair.
- b. Agents routinely make audio recordings during investigations. These audio recordings, whether analog or digital, are evidence and shall be treated accordingly. To maintain the integrity of the evidence, the responsible Special Agent or task force agent shall prepare the recordings according to the following procedures prior to submission to the Evidence Custodian and entered into the evidence system.
1. Magnetic tape is the most commonly used media for audio recording. This media type is durable and can be re-used, but is highly susceptible to erasure by electro-magnetic fields. If the magnetic tape has had prior use, it must be electronically erased or magnetically cleaned. Copies may be made through readily available copying devices; however, no tape splices, erasures or other electronic edits to the original evidence tape may be made unless such action is taken to repair a damaged tape. Any enhancements or edits of information on the tape must be accomplished using a copy of the original. Audio tape evidence should be stored in plastic video tape cases and not placed in close proximity with electro-magnets or electronic sources other than those used to play or copy the audio tape.
  2. Removable digital media storage devices such as the 3.5" floppy disc, mini disc, memory stick, compact flash or SD card are a few of the common digital storage devices utilized in modern recording devices. Like magnetic tape, digital storage

devices can be used multiple times by transferring the data recorded to another, more permanent storage media such as a computer hard drive, CD-R or DVD-R in a "read only" format. The removable media device can then be erased and re-used. The CD-R or DVD-R is then recognized as the original image if the following procedure is followed:

- a. Prior to use, ensure the digital storage device is empty or reformatted. Upon completion of the recording, the removable device, if practical, can be booked as evidence in accordance with Policy Manual §§ 804.3 and 804.4.1. If it is not practical to book the original digital storage device the following download procedure shall be used:
  1. Make sure the digital recording device is in the power off position and connect the recorder to a computer using the appropriate manufacturer's software/cable, or card reader, to download the contents of the digital storage media device onto the computer's hard drive.
  2. Once the images from the device are present on the hard drive, ensure they are in a "read only" format and make a CD-R or DVD-R of the data. Replay the CD or DVD to ensure the images were properly recorded from the hard drive.
  3. Disconnect the recorder from the computer and erase/reformat the camera's storage device for re-use.
- b. The first generation CD-R or DVD-R created is now the original file of the image(s). The disc shall be marked with indelible marker on the label side with the following information:
  1. The agent's name making the recording
  2. The date and time of the recording
  3. The investigation number
  4. The evidence item number
  5. A description of the recording
  6. The name of the individual who created the CD/DVD if different than the original recording agent
  7. The date of the CD/DVD's creation

8. No alterations, edits or movement of any data is allowed on the original CD/DVD. Use of CD-RW (re-writeable) or DVD-RW for the production of an original digital file is prohibited.
  - c. The original shall be packaged in commercially available CD/DVD protective cases (jewel cases) similar to those used by the music and movie industry for retail sale. If recording enhancement or alteration for use as an investigative or training tool is needed, copies of the original disc may be made. The only recording alterations which can be made to a copy of an original disc held as evidence are those associated with enhancing clarity.
3. The digital storage media described in this section shall be packed and labeled as specified in Policy Manual § 804.4.1 and submitted into evidence in accordance with Policy Manual § 804.3. All audio/video tapes and digital disks that are related to a "wire tap" investigation shall be identified accordingly and retained as evidence for ten years.
  - c. When alterations (enhancements, clarity, etc.) are made to a copy of an original disc or magnetic tape as noted in this section that result in establishing additional investigative activity, probable cause, or will be used in court proceedings, the alterations shall be documented in an investigation report. The details shall include who conducted the alterations, the date(s) the alteration was conducted, the reason or purpose for the alterations, the name, title and agency of the requestor of the alteration if applicable, and the results of the alteration (additional investigative activity, probable cause, etc.).
    1. The altered media storage devices shall be given an evidence item number and submitted into evidence. All repairs to media storage devices shall be documented in an investigation report detailing the need for the repair, who conducted the repair, the date(s) of the repair and the method of repair.
  - d. Following the retrieval of the digital evidence, the computers, electronic devices, or digital media shall be packaged in accordance with Policy Manual § 804.4.1. These items must be stored in an environment free from magnets, radio transmitters, heat, liquids, microwaves and excessive dust.
  - d. For purpose of this policy, the terms wiping and sanitizing are used to describe the process of electronically shredding the contents of a file or disk space. This procedure or process will overwrite the target data area. Overwriting three times is sufficient. It is the responsibility of the case agent to ensure that all digital media be wiped or sanitized utilizing an industry standard sanitization or wiping program prior to return or release. This procedure shall be documented in a report by the case agent indicating the personnel who conducted the wiping or sanitization process, the method or program used, the amount of data wiped, and the date the wiping occurred.

- e. In addition to the methods described above, BMFEA agents may utilize ProLaw to store digital media.

## **804.8 EVIDENCE INVENTORY/INSPECTIONS OF THE EVIDENCE VAULT**

- a. All evidence retained in a regional office evidence vault and at a regional office offsite evidence storage facility shall be inventoried once every 12 months either by the regional office or by the OD Inspection Unit during a scheduled compliance inspection, a follow-up inspection, a special inspection ordered by the Director or a change of Evidence Custodian. The inspection shall consist of a 100 percent audit of the evidence vault. The regional office inventory shall be conducted by a minimum of two people, one of whom shall be an SAS. The Evidence Custodian shall not be part of the inventory team, but shall assist the team in answering questions and locating evidence. The inventory shall be completed within ten working days of the start of the inventory.
  1. The primary document for the vault inventory shall be copies of the evidence tracking program's vault inventory printout. The vault inventory shall consist of checking each evidence item against the evidence tracking program's vault inventory printout and if necessary, the Evidence Log and the Chain of Custody sheets to ensure the information on the evidence package relating to identification (case name, case number, date and location of seizure, submitting Special Agent, etc.), description of contents, and location (meaning in, out or not received) match with the evidence tracking program documents. In those units in which the bound Evidence Control Log is still in use, the evidence shall be compared with those log entries. Sealed containers shall not be opened during the inventory unless there is reason to believe that the contents do not match the description of the contents on the container or the seal is broken. Additional documents available in EATS are the Chain of Custody sheets, Table of Contents, Currency Summary, Weapons, or Sub Sample Summaries, and destruction or release documents. The evidence inventory shall be documented on the Chain of Custody sheet by date, purpose and signature of a member of the audit team.
  2. An investigation file review may be conducted if necessary. Documents necessary to the report review include investigation files documenting the seizure of evidence, the Vault Inventory, Table of Contents, and various summaries. The review of the investigation files include comparing the evidence listed in the investigation reports with the evidence listed on the relevant evidence tracking program documents. Additionally, the review shall include the details of the evidence in the narrative of the report, evidence item numbering, and property receipts.
  3. Inventories conducted during inspections shall be reported following routine inspection procedures. Upon completion of the inventory by the regional office, a memorandum to the SAC shall be prepared by the assigned SAS and signed by all persons who participated in the inventory. This memorandum shall identify the

persons who participated in the inventory, the date(s) and results of the inventory, the specific discrepancies, including the case numbers and evidence item numbers, and the steps taken to resolve those discrepancies.

- a. The determination to resolve discrepancies in closed or adjudicated investigations shall be made by the SAC in conjunction with bureau headquarters depending on the criticality of the discrepancy, the availability of information and resources. Discrepancies found concerning open investigations or closed investigations pending adjudication must be resolved. Within 30 days of the completion of the inventory in which all discrepancies were resolved, the SAC shall forward a copy of the inventory to bureau headquarters. Upon approval by the Bureau Chief, a copy shall be forwarded to the Director, Deputy or Assistant Director and OD Assistant Chief. If approval is not given, the Bureau Chief will provide the regional manager with direction and a time frame to address the requests for additional information by the Bureau Chief.
  - b. If there are unresolved discrepancies, the SAC shall send a copy of the inventory memorandum to the Bureau Chief accompanied by a memorandum prepared by the SAC explaining the steps being taken to resolve the discrepancies and the measures taken to prevent them from occurring again. The Bureau Chief shall provide the SAC with further directions and an additional 30 days to resolve the discrepancies. Upon resolution of all discrepancies the Bureau Chief shall forward copies of all related memorandums to the Director and the Deputy or Assistant Director.
- b. All task force evidence retained in task force offices shall be inventoried once every 12 months by the task force staff or by the Inspection Unit during a scheduled compliance inspection, a follow-up inspection, a special inspection ordered by the Director, a change of Evidence Custodian inspection, or a change of command inspection. The inventory process shall consist of two parts: a 100 percent audit of the vault and a review of the investigation files. This includes evidence retained at both on and off-site evidence storage facilities. The audit team shall be selected by the TFC, with the approval of the regional manager, who may assign regional office personnel to assist in the inventory. The inventory shall be conducted by a minimum of two people. The inventory shall be completed within 10 working days of the start of the inventory.
1. Documents necessary to the vault inventory include, but are not restricted to, the Evidence Control Log, copies of evidence booking forms used as an evidence log or, if the task force uses an automated system, a printout of all items stored in the evidence vault. Additional source documents may be destruction orders, release documents and property receipts.
  2. The inventory shall consist of checking each evidence item against the source control documents to ensure the information on the evidence package relating to

identification (case name, case number, date and location of seizure, submitting agent, etc.), description of contents, and location (meaning in, out or not received) match with the source control documents. Sealed containers shall not be opened during the inventory unless there is reason to believe that the contents do not match the description of the contents on the container or the seal is broken. The evidence inventory shall be documented on the Chain of Custody by date, purpose and signature of a member of the inventory team.

3. An investigation file review shall be conducted during an inspection. Documents necessary to the report review include investigation files documenting the seizure of evidence, the Evidence Control Log, copies of evidence booking forms used as an evidence log or, if the task force uses an automated system, a printout of all items currently stored in the evidence vault. Additional source documents may be destruction orders, release documents and property receipts. The file for each investigation during which evidence was seized since the last inventory shall be reviewed to identify any evidence that should be in the vault. This information shall be compared to the evidence control documents to ensure that all of the evidence was properly submitted to the evidence vault. Additionally, the review shall include the details of the evidence in the narrative of the report, evidence item numbering and property receipts.
4. Inventories conducted during inspections shall be reported following routine inspection procedures. Upon completion of the inventory, a memorandum to the TFC shall be prepared by the inventory team leader and signed by all persons who participated in the inventory. This memorandum shall identify the persons who participated in the inventory and detail the date and results of the inventory including a description of all discrepancies found, including the case numbers and evidence item numbers, and the steps taken to resolve those discrepancies.
  - a. The determination to resolve discrepancies in closed or adjudicated investigations shall be determined by TFC in conjunction with the SAC, depending on the criticality of the discrepancy, the availability of information, and resources. Discrepancies found concerning open investigations or those pending adjudication must be resolved. Within 30 days of the completion of the inventory in which all discrepancies were resolved, the TFC shall forward a copy of the inventory to the SAC. Upon approval by the SAC, a copy shall be forwarded to the Bureau Chief for review, approval and forwarding to the OD Inspection Unit. If approval is not given, the SAC shall provide the TFC with direction and a time frame to address the request for additional information by the SAC.
  - b. If there are unresolved discrepancies, the TFC shall send a copy of the inventory memorandum to the SAC accompanied by a memorandum prepared by the TFC explaining the steps being taken to resolve the discrepancies and the measures taken to prevent them from occurring again. The SAC shall provide the TFC with



further directions and an additional 30 days to resolve the discrepancies. Upon resolution of all discrepancies, the SAC shall forward copies of all related memorandums to the Bureau Chief for review, approval and forwarding to the Inspection Unit.

5. A complete inventory of the evidence vault, as set forth in Policy Manual § 804.8(a)(1), shall be conducted whenever there is a change of TFC. This inventory shall be completed at the time the current TFC leaves the assignment, and may be conducted during the change of command inspection. The SAC shall assign an SAS and a Property Controller to conduct the inventory. When possible, the inventory should include the incoming TFC. The results shall be reported in the same manner as an annual inventory, except that the inventory memorandum shall initially be submitted to the incoming TFC.
- c. A complete inventory of the evidence vault, as set forth in Policy Manual § 804.8(a)(1), shall be conducted whenever there is a change of Evidence Custodian. The inventory shall be completed before the incoming Evidence Custodian becomes responsible for the evidence vault. The SAC shall assign an SAS and a Property Controller to conduct the inventory and, when possible, the inventory should involve the incoming and outgoing Evidence Custodians. The results shall be reported in the same manner as an annual inventory. A task force's inventory memorandum shall be prepared by the incoming Evidence Custodian and initially submitted to the TFC.
- d. Task forces that book task force evidence with member agencies and comply with that member's evidence rules and procedures are not required to inventory task force evidence.
- e. DLE Inspectors shall conduct a complete inventory of the evidence vault of a regional office, or task force office that maintains custodial responsibility for its evidence, when they conduct a regularly scheduled compliance inspection or as otherwise directed. The inventory shall comply with the requirements set forth in Section 804.8(a). This inspection inventory will fulfill the requirement for an annual inventory.
- f. Situations may arise when the Director determines that an unannounced complete evidence audit will be conducted of a regional office or task force's evidence vault. The Bureau Chief will be notified at least three calendar days prior to the commencement of the audit. The regional manager shall ensure that the appropriate persons (i.e., Evidence Custodian, Property Controller, etc.) are available in the task force office for the duration of the audit.

## 808 Restoration of Firearm Serial Numbers

### 808.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

### 808.2 PROCEDURE

Any firearm coming into the possession of the California Department of Justice as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

#### 808.2.1 PRELIMINARY FIREARM EXAMINATION

- a. Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tabular magazine) as well as the chamber contents.
- b. If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.
- c. Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.
- d. If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

## **808.2.2 PROPERTY BOOKING PROCEDURE**

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

## **808.2.3 AGENT RESPONSIBILITY**

The agent seizing a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

## **808.2.4 DOCUMENTATION**

Investigation reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

## **808.2.5 FIREARM TRACE**

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property Controller will complete a Bureau of Alcohol, Tobacco, and Firearms (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATC 3312.1OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

## **808.3 BULLET AND CASING IDENTIFICATION**

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

## **810 Release of Records and Information**

### **810.1 PURPOSE AND SCOPE**

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Department reports and records in accordance with applicable law.

#### **810.1.1 COORDINATOR**

For the purpose of this policy, the coordinator is the employee designated to coordinate the program's response to requests for records. The designated coordinators are:

- a. DLE - The Litigation Coordinator
- b. BOF - The DAG assigned to the BOF
- c. BMFEA - The Chief of Prosecutions

### **810.2 PUBLIC REQUESTS FOR RECORDS**

The California Public Records Act (PRA) (Government Code § 6250, et seq.) provides that records created by a public agency shall be subject to inspection and release pursuant to request, except pursuant to exemptions set forth in the Act or otherwise established by statute.

The Information Practices Act (IPA) (Civil Code § 1798 et seq.) allows individuals the right to inquire and be advised as to whether or not a state agency maintains records containing personal information about themselves.

Public requests for records of this department shall be processed as follows:

#### **810.2.1 PROCESSING OF REQUESTS**

Any member of the public, including the media and elected officials, may access unrestricted records of this department by submitting a written and signed request for each record sought and paying any associated fees (Government Code § 6253).

The Coordinator must be notified of all PRA and IPA requests immediately upon receipt. PRA and IPA requests submitted to the BMFEA shall be forwarded to the BMFEA Headquarters. Prompt attention and communication with the Coordinator is required to ensure consistency in the processing and dissemination of information, as well as compliance with the legislatively mandated response time. This is especially important if the Bureau is attempting to assert exemption from disclosure to any or all of a request.

The Coordinator shall prepare a written response advising the requester that all information pertaining to the request is being released and exempt information withheld pursuant to State statutes. The DLE Litigation Coordinator may contact the lead Supervising DAG in the Civil

Division for assistance. The Coordinator shall maintain a log of requests received from all sources.

The processing of requests is subject to the following limitations:

- a. The Coordinator shall determine if the requested record is available and/or subject to any exemption from disclosure. Processing of such requests may take up to ten days and an additional 14-day extension may be authorized (Government Code § 6253(c)). Facilitating inspection of records containing personal information under the IPA may take up to 30 days, or up to 60 calendar days if the records are geographically dispersed or inactive and in central storage (Civil Code § 1798.34).
- b. The requesting party shall be required to pay in advance any established fee for each record sought (Civil Code § 1798.33 and Government Code § 6253(b)).
- c. In accordance with the PRA, the Department is not required to create records that do not otherwise exist in order to accommodate a request under the PRA.

Requests by elected officials for records that are not open to public inspection should be referred to the appropriate DAG for a determination as to whether the records will be released.

## **810.3 REPORT RELEASE RESTRICTIONS**

Absent a valid court order or other statutory authority, records and/or unrestricted portions of such records of this department shall be made public subject to the following restrictions:

### **810.3.1 GENERAL CASE AND CRIME REPORTS**

Reports containing any of the items listed below will not be released:

- a. **Victim Information** - Victims of crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses (e.g., sex crimes, Penal Code § 293) shall not be made public. No employee shall disclose to any arrested person or to any person who may be a defendant in a criminal action the address or telephone number of any person who is a victim or witness in the alleged offense, unless it is required by law (Penal Code § 841.5).
- b. **Confidential Information** - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public.
  1. Analysis and conclusions of investigating agents may also be exempt from disclosure.

2. If it has been noted in any report that any individual wishes to protect his/her right to privacy under the California Constitution, such information may not be subject to public disclosure.
- b. **Specific Crimes** - Reports involving, but not limited to, **child abuse/molestation** (Penal Code § 11167.5), **elder abuse** (Welfare and Institutions Code § 15633) and **juveniles** (Welfare and Institutions Code § 827) shall not be made public.
- c. **General Information** - Absent statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- d. **Deceased juvenile crime victims** - The Code of Civil Procedure § 130 limits the dissemination of autopsy and private medical information concerning a murdered child by allowing families to request that the autopsy report of the victim be sealed from public inspection. Such requests shall be honored, with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

### **810.3.2 ARREST REPORTS**

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, Attorney General or the courts pursuant to Penal Code § 1054.5.

State criminal history information including, but not limited to, arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

### **810.3.3 TRAFFIC COLLISION REPORTS**

Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles, other law enforcement agencies and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

### **810.3.4 PERSONNEL RECORDS**

Personnel records, medical records and similar records which would involve personal privacy shall not be made public (Government Code § 6254(c)).

Peace officer personnel records are deemed confidential (Penal Code § 832.7, et seq.) and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order (Evidence Code § 1043, et seq.).

The identity of any agent subject to any criminal or administrative investigation shall not be released without the consent of the involved agent, prior approval of the Director or as required by law (Government Code § 3300 (e)).

Personal information shall not be disclosed in a manner that would link the information disclosed to the individual to whom it pertains unless it is disclosed under the conditions specified in Civil Code § 1798.24.

All requests for peace officer personnel records shall be handled exclusively by the Coordinator.

In a case in which discovery or disclosure is sought for peace officer personnel records, the party asking for such discovery or disclosure shall file a written motion with the appropriate court. The employee receiving the notice shall immediately notify the person whose records are sought. All such motions shall be faxed to the Litigation Coordinator or BMFEA Chief of Investigations, who will review the peace officer's file(s) for responsive documents. If necessary, the Litigation Coordinator or BMFEA Chief of Investigations may contact an SDAG and request that a DAG be assigned to respond to the motion.

Failure to comply within the prescribed time limits may result in the Department being held in contempt of court or ordered to produce the personnel file(s). As such, it is critical that all such requests be immediately forwarded to the Litigation Coordinator or BMFEA Chief of Prosecutions.

### **810.3.5 CONCEALED WEAPONS PERMITS**

Information contained in CCW permit applications or other files which would tend to reveal where the applicant is vulnerable or which contains medical or psychological information shall not be made public (Government Code § 6254(u)).

### **810.3.6 DOMESTIC VIOLENCE REPORTS**

Victims of domestic violence or their representative shall be provided, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

## **810.4 OTHER RECORDS**

Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege or to the security of the department's electronic technology systems (Government Code § 6254(k) and Government Code 6254.19).

The Department maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure (Government Code § 6255).

Any record which was created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure (Government Code § 6254(b)).

### **810.4.1 PERSONAL IDENTIFYING INFORMATION**

Employees shall not access, use or disclose personal identifying information, including an individual's photograph, social security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721 and 18 USC § 2722).

## **810.5 SUBPOENA DUCES TECUM**

Any Subpoena Duces Tecum should be promptly provided to the Litigation Coordinator for review and processing. While a Subpoena Duces Tecum may ultimately be subject to compliance, it is not an order from the Court that will automatically require the release of the requested information.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to the Coordinator so that a timely response can be prepared.

When a Subpoena Duces Tecum is received by the BOF, it will be processed by the BOF DAG.

When a Subpoena Duces Tecum is received by the BMFEA, it shall be provided to the regional SDAG responsible for the matter.

To assist with tracking Subpoena Duces Tecum information released to the prosecuting or defense attorney, the DLE Litigation Coordinator shall complete and retain a Disclosure of Documentation Worksheet (DLE 183).



## **810.6 RELEASED RECORDS TO BE STAMPED**

Each page of any record released pursuant to a PRA request or Subpoena Duces Tecum shall be stamped in red ink with a departmental stamp identifying the individual to whom the record was released.

## 812 Criminal Offender Record Information (CORI)

### 812.1 PURPOSE & SCOPE

This policy provides guidelines for the release of criminal offender information, security of that information, and persons authorized to release that information.

### 812.2 AUTHORITY

This policy is established pursuant to the mandate of the Regulations Regarding Security of Criminal Offender Record Information in California, Title 11, California Administrative Code. Other authority includes Penal Code § 11105, which delineates who has access to Criminal Offender Record Information (CORI), and Penal Code §§ 11140 through 11144, which establishes penalties for the improper use of rap sheets.

### 812.3 DEFINITIONS

**Criminal Offender Record Information** - (CORI) shall include CII manual/automated rap sheets and abstracts, CII crime summaries, CII criminal history transcripts, FBI rap sheets, and any DLE documents containing a list of prior arrests.

**Criminal Justice Agency** - Means a public agency or component thereof which performs a criminal justice activity as its principal function.

**Authorized Recipient** - Means any person or agency authorized by court order, statute or case law to receive CORI.

**Right to Know** - Means persons or agencies authorized by court order, statute or decisional case law to receive the information.

**Need to Know** - Means a necessity exists to obtain CORI in order to execute official responsibilities.

### 812.4 AUTHORIZED RECIPIENTS OF CORI

CORI may be released only to authorized recipients who have both a right to know and a need to know. All law enforcement personnel with proper identification are authorized recipients, if they have an official need to know.

The California Department of Justice has issued a list of agencies authorized to receive criminal history information. Persons not included in the Department of Justice list are not authorized recipients and shall not receive CORI.

## **812.4.2 RELEASE OF CORI**

Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

## **812.4.3 RELEASE OF CORI TO FIELD PERSONNEL**

Personnel shall not have access to CORI until a background investigation has been completed and approved. CORI shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the agent or the public are at significant risk.

Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect; however, a routine investigation or traffic enforcement stop would not be sufficient justification.

Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

## **812.5 JUVENILE RECORDS**

Nothing in this procedure is intended to alter existing statutes, case law, or the policies and orders of the Juvenile Court regarding the release of juvenile offender records. Refer to Policy Manual § 324 for more specific information regarding cases involving juveniles.

## **812.6 REVIEW OF CRIMINAL OFFENDER RECORD**

Penal Code §§ 11120 through 11127 provide the authority and procedure whereby an individual may review his/her own California Department of Justice (CII) rap sheet. Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements.

## **812.7 PROTECTION OF CORI**

CORI shall be secured in locked desks, locked file cabinets, or in locked rooms. Direct access to CORI shall be restricted to those persons who possess both the right to know and the need to know the information.

### **812.7.1 COMPUTER TERMINAL SECURITY**

No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

## **812.7.2 DESTRUCTION OF CORI**

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

## **812.8 TRAINING PROGRAM**

All personnel authorized to process or release CORI shall be required to complete CLETS training.

## **812.9 PENALTIES FOR MISUSE OF RECORDS**

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.37 (a).

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.37(a).

## **812.10 NO LONGER INTERESTED NOTIFICATION**

When the Department no longer has a legitimate need to know, (i.e., an employee separates, a retired agent does not wish to renew his/her CCW, a gambling application pertaining to an individual applicant becomes inactive, etc.), a No Longer Interested Notification (NLI) form (BCII 8302A) shall be completed and submitted according to the instructions on the form.

**814 Not subject to disclosure due to agent safety concerns**

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## **815 Publications**

### **815.1 PURPOSE AND SCOPE**

This policy is intended to ensure the consistency and quality of the publications produced by this division, whether they are intended for internal or external distribution.

### **815.2 POLICY**

Publications, such as manuals, reports, bulletins and brochures, may be developed with the assistance of the Office of the Director or independently by a bureau within the DLE. If developed independently by a bureau, an electronic copy of the final draft shall be submitted to the Office of the Director. In all cases, the bureau shall provide all information necessary to complete the Publication Approval form (JUS 128).

The Office of the Director shall edit and format the report as necessary, coordinate Division review and approval, complete the Department's publication process as specified in DOJAM § 03500 et seq. and, when appropriate, arrange to have the publication uploaded to the Department's Web site and/or Intranet.

If a specific publication date is required or desired, it is the bureau's responsibility to ensure that the final draft is received by the Office of the Director a minimum of forty-five (45) days prior to the requested publication date.

## **817 Legislatively Mandated Reports**

### **817.1 PURPOSE AND SCOPE**

The Department is legislatively mandated to provide a number of reports to the Governor and the Legislature. The purpose of this policy is to provide guidance to employees and programs within this division who are tasked with preparing these reports.

#### **817.1.1 COORDINATOR**

The Office of the Director processes all legislatively mandated reports. The Coordinator is available to assist bureaus with content and formatting, serves as the liaison with the DAS Mandated Reports Coordinator, secures Division and Department approval of the report, and arranges for publication.

### **817.2 POLICY**

Each bureau is responsible for the timely preparation of its own report(s). Four (4) weeks before the mandated due date, paper and electronic copies of the completed report shall be submitted to the Coordinator with a memorandum from the Bureau Chief indicating approval. The memorandum shall address the following:

- a. Funding source for printing.
- b. Printing cost, if known.
- c. Quantity of reports to be printed.
- d. Whether blanket approval is being requested (enables reprinting as necessary without repeating the approval process).

Upon receipt, the Coordinator shall review the report for content, formatting, and statute compliance and may make non-substantive, technical changes as necessary. The Coordinator shall then complete Publication Approval (JUS 128) and Legislatively Mandated Report Transmittal (JUS 129) forms, forward the package to the Director for approval, and then to the DAS Mandated Report Coordinator for review and processing. Once approved, the DAS Mandated Report Coordinator shall return the package for printing and distribution.

The Coordinator shall provide the DAS Mandated Report Coordinator with the appropriate number of copies for distribution to the Governor and the Legislature. The originating bureau shall be responsible for distribution of all other documents to individuals/agencies other than the Governor and Legislature.

## **819 Forms**

### **819.1 PURPOSE AND SCOPE**

Forms designed by this division for its own use are identified by the letters “DLE” followed by a numerical designation. The Department’s forms policy may be found in DOJAM Chapter 4, section 1. This policy outlines the procedures for creating and updating DLE forms.

#### **819.1.1 DIVISION FORMS COORDINATOR**

The Division Forms Coordinator (Coordinator) in the Office of the Director is the central contact person for the creation and modification of forms by this division and is also the Division’s liaison with the Department Forms Coordinator. The Coordinator maintains a database list of all current and past forms known to be used by this division, as well as hard and/or electronic copies of as many of these forms as can be obtained.

### **819.2 POLICY**

DLE forms may be designed by the Coordinator or by individual programs. Absent exigent circumstances, forms must be created using Adobe LiveCycle software. If a program creates or modifies a form, the form shall be submitted electronically to the Coordinator along with a Form Approval Request form (JUS 8762); if the Coordinator creates or modifies the form, he/she will prepare the JUS 8762. DAS will not accept a form without a JUS 8762 signed by the Coordinator.

Many Division and Department forms are posted to the Intranet under the Forms tab, with more becoming available as older forms are recreated electronically. Forms created for use by the public are posted to the Attorney General’s Internet site. Generally, forms that are to be posted to the Internet require legal review prior to submission to DAS.

Requests to modify Department forms (identified by the letters “JUS”) should be directed to the Department Forms Coordinator at [DOJFormsCoordinator@doj.ca.gov](mailto:DOJFormsCoordinator@doj.ca.gov).

#### **819.2.1 ACCESSIBILITY**

Pursuant to Government Code § 11135(d)(1)(2), electronic forms produced by this division shall comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and Part 1194 of Title 36 of the Code of Federal Regulations. This requirement applies to any form that will be posted to the Department’s Intranet and/or Internet or otherwise made available electronically.

## *Chapter 9 - Custody*

### **902 Custody Searches**

#### **902.1 PURPOSE AND SCOPE**

Refer to the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for issues relating to pat-down, booking and strip searches of pre-arraignment detainees.

## **1000 Recruitment and Selection**

### **1000.1 PURPOSE AND SCOPE**

The rules governing employment practices for this department are maintained by DAS/Personnel Programs in the Department of Justice Hiring Policy - Supplemental Handbook, which is available on the Intranet.

### **1000.4 HIRING CRITERIA**

Peace officer applicants must be 18 years of age or older and must be U.S. citizens or Resident Aliens who have applied for citizenship. Non-sworn applicants must be 18 years or older or have a valid work permit and must be U.S. citizens, Resident Aliens or have the necessary work visas as required by the Department of Homeland Security, U.S. Citizenship and Immigration Services. All applicants must have a high school diploma from an accredited institution, a GED, a California Proficiency Certificate and/or an Associate's or Bachelor's Degree from a U.S. accredited college or university.

Any applicant who meets one or more of the criteria in any of the following categories should be disqualified from the hiring process, unless the Director grants an exception:

- a. General Behavior:
  - 1. Any demonstrated pattern of adverse behavior.
  - 2. Dishonesty during the background investigation/hiring process.
  - 3. Multiple law enforcement contacts/calls for service as a result of the applicant's behavior.
- b. Unlawful Drugs:
  - 1. Manufacturing, producing or selling any drug or other controlled substance.
- c. Marijuana/Cannabis Use:
  - 1. Any use within the past three years, or extensive use over a substantial period of time during the applicant's personal history.
- d. Illegal Drug Use:

1. Any use while in a law enforcement or prosecutorial position, or in a position which carries with it a high level of responsibility or public trust.
2. Any use within the past five years if the drug use occurred after the applicant's 18th birthday and before his/her 23rd birthday.
3. Any use within the past ten years if the drug use occurred on or after the applicant's 23rd birthday.
4. For the purpose of this policy, illegal drug use is defined as illegal use of any of the following opiates, hallucinogens, depressants, and stimulants:
  - a. Heroin
  - b. Methadone
  - c. Cocaine (Crack)
  - d. Morphine
  - e. Ecstasy
  - f. Mescaline
  - g. Peyote
  - h. Opium
  - i. Quaaludes
  - j. LSD
  - k. Barbiturates
  - l. PCP
  - m. Percodan
  - n. Psilocybin (Mushroom)
  - o. Amphetamines
  - p. Methamphetamine (Crank/speed/ice)

- e. Driving Under the Influence:
  - 1. More than one arrest and/or conviction for reckless driving or driving under the influence of drugs and/or alcohol.
- f. Driver License Sanctions:
  - 1. Revocation or suspension at the time of application.
- g. Failure to Appear/Pay (FTA/FTP):
  - 1. Any combination of three or more FTA/FTP within five years of application.
- h. Employment:
  - 1. Multiple disciplinary actions.
  - 2. Two or more terminations from employment.
  - 3. Termination or resignation in lieu of termination from a law enforcement agency.
- i. Financial:
  - 1. A demonstrated pattern of collections, charge-offs, and/or bankruptcies.
- j. Military:
  - 1. Multiple disciplinary actions.
  - 2. Any type of discharge other than honorable.
- k. Legal\*:
  - 1. Felony conviction
  - 2. Misdemeanor conviction as an adult involving moral turpitude
  - 3. History of domestic violence/stalking
  - 4. History of sex crime(s)
  - 5. Conviction of any crime in another state/country that would meet the aforementioned criteria if the act was committed in California



6. Commission of any undetected act that would meet the above criteria

\*Information obtained during the investigation that reveals commission of any act as a juvenile that would meet the aforementioned criteria if the offender was an adult shall be considered on a case-by-case basis.

## **1001 Background Investigation Process**

### **1001.1 PURPOSE AND SCOPE**

A background investigation is a requirement of the hiring process for all persons who apply for a position within the DLE. No person shall be employed within the DLE without successfully completing a full background investigation. The Office of the Director (OD), Background Investigation Unit (BIU) shall be responsible for ensuring that all background investigations are conducted in a timely manner with competency and consistency.

Designated investigators shall receive training from the BIU on appropriate practices and procedures established by the Commission on Peace Officer Standards and Training (POST) and DLE policy. Each trained investigator is responsible for reviewing the POST Background Investigation Manual annually. A refresher course shall be provided to the investigators annually by the BIU.

If an employee is promoted or transferred from a position that previously required only a modified background to any other position within the DLE, a full background investigation shall be successfully completed prior to his/her appointment to the new position. It shall be the responsibility of the bureau's personnel analyst to contact the BIU and request a new background for the promoted employee. Background investigations shall be conducted only by the OD/BIU or the hiring bureau's staff members with approval from the OD/BIU.

#### **1001.1.1 FULL BACKGROUND INVESTIGATIONS**

A full background investigation shall be conducted prior to extending a formal offer of employment to a candidate for any position within the DLE, and shall consist of inquiries to the following:

- Criminal history
- Employment history
- Personal references
- Education
- Residence
- Financial and DMV checks
- Verification of vehicle insurance

These background investigations shall be conducted by OD/BIU in conjunction with retired annuitants, agents and contractors.

## **1001.2 BACKGROUND PROCEDURES**

All requests for pre-employment background investigative services shall be initiated by the individual bureaus and submitted to the BIU. The requests shall be documented on a Request for Background Investigation memorandum and signed by the Bureau Chief or his/her designee prior to the initiation of an investigation. Only a Chief or his/her designee can authorize a background to be conducted.

The BIU is responsible for sending a background package to the applicant, which will contain all the necessary documentation the applicant needs to complete and return to the BIU.

All background investigations shall require the following forms to be completed and returned to the BIU by the applicant:

- Request for Live Scan Services Form (BCII 8016)
- POST Personal History Statement (POST 2.251)
- Notarized Authority to Release Information Form (DLE 201) (Two originals are required)
- Fingerprint Authorization and Release Form (JUS 8820)
- Employment Eligibility Verification Form (UCSIS Form I-9)
- Statement Concerning Your Employment in a Job Not Covered by Social Security (Form SSA-1945)

The applicant is required to obtain a credit report which encompasses the applicant's credit history from one of the three major credit reporting agencies, TransUnion, Equifax or Experian. The applicant will also be required to provide copies of their birth certificate, driver license, social security card, high school/college diplomas and obtain official college transcripts. The applicant will need to take the BCII 8016 form to a Livescan location to be fingerprinted. The completed package shall be returned to the BIU. The BIU will assign a background investigation number and record all pertinent applicant information in the background tracking log, which contains:

- Candidate's name
- Classification
- Investigation number
- Requesting unit

- Date request was received by the BIU
- Assigned investigator's name/unit
- Date background was assigned to an investigator
- Due date
- Date completed background was returned to the BIU
- Candidate's office of preference (sworn only)
- Comment field

Once all initial information has been entered into the tracking system, a background investigator shall be assigned.

Regional offices may conduct background investigations on support staff applicants within their office, only after coordinating with the OD personnel analyst and the BIU, and providing them with the tracking log information.

Once a background investigator is assigned, a file folder and related materials shall be supplied to the investigator by the BIU. All documents obtained during the investigation shall be placed into the folder. Metal prong fasteners shall be used to attach the report and appendix on the right side of the folder. Working documents, applications, access waivers, etc., shall be attached on the left side of the folder.

An electronic copy of the investigation report shall be emailed to the BIU. Investigators shall not retain electronic copies, stored computer information, or paper copies of background investigation reports or other personal applicant information in any areas other than the official BIU investigation file.

Background investigation reports shall be reviewed and approved by the investigator's first- and second-level supervisors for completeness and accuracy. Following this review and approval, all background reports and files shall be returned to the BIU. The background investigation(s) and report(s) shall then be reviewed by the BIU for completeness, thoroughness, and conformity to POST guidelines and Division requirements. If the investigation and/or report are found to be incomplete or otherwise lacking, the file, in relevant part, shall be returned to the original investigator for completion. If the investigation(s) and/or report(s) are deemed complete, the file shall be routed to the appropriate Bureau Chief for review and a hiring decision. After the Bureau Chief or his/her designee has signed the report, it shall be returned to the BIU. The BIU shall send a disposition form (BIU 07-001) to the appropriate bureau personnel analyst.

Once the disposition has been received by the bureau's personnel analyst, a reporting date may be given to the applicant, if all other hiring requirements are met. At the completion of the hiring process, the background investigation file shall be maintained in the BIU.

### **1001.2.1 RELEASE OF CONFIDENTIAL INFORMATION**

All background information and reports shall be labeled "confidential." The investigation file and all information contained therein shall not be reviewed by, or disseminated to, anyone other than the Director, Deputy or Assistant Director, Bureau Chief or Assistant Bureau Chief. Subsequent to the conclusion of the background investigation, the investigators and any personnel involved in the hiring process shall not disclose any information received or discussed during any background investigation. Following the hiring process, all requests to review a completed file/report maintained by the BIU shall receive prior approval of the Director, Deputy Director or Assistant Director. Access to the files shall be granted on a "need to know" basis as determined by the Director, Deputy Director or Assistant Director or with the employee's written consent/waiver during a subsequent background investigation process.

All applicant requests for information related to information developed during the background investigation process shall be made through the employee's chain of command and forwarded from the employee's Bureau Chief to the Litigation Coordinator, in accordance with the provisions of General Order 01-05.

Applicants not selected for employment after a background investigation has been conducted shall be notified in writing by the bureau's personnel analyst only. To ensure confidentiality and consistency in hiring decision notifications, any inquiries from the applicant that are received directly by any member of the hiring bureau shall be directed to the BIU.

### **1001.2.2 CONTRACT EMPLOYEES – BACKGROUND CHECKS**

Background investigations for contract employees (i.e., janitors, vendors, etc.) shall be coordinated by the BIU. A full or modified investigation shall be conducted according to the access level the contract employee will have. The investigations include a search of automated systems for a driver's record, wants and warrants, supervised release file, restraining orders, automated property, and firearms clearances. Fingerprint clearances shall be obtained through a search of records contained in the BCII and FBI files.

Modified background investigations for contract employees (i.e., janitors, vendors, etc.) shall consist of inquiries to the following:

- Criminal history
- Employment history
- Education

- Finances
- DMV record
- Proof of vehicle insurance

All other employees seeking permanent positions with the DLE or unsupervised access to a DLE facility shall undergo a full background investigation.

## **1003 Employee Fundraising Activity**

### **1003.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines for fundraising by Division of Law Enforcement employees.

### **1003.2 POLICY**

Employees are allowed to engage in specific fundraising efforts for the benefit of non-profit, charitable organizations, or to raise money for employee activities such as holiday parties or a memorial fund. Supervisors are responsible for ensuring that any fundraising activities are conducted by their staff in accordance with this policy.

### **1003.3 OBTAINING APPROVAL**

Fundraising activities as described in this policy require the prior approval of the appropriate Bureau Chief. To obtain approval, complete the Request for DOJ Fund-Raising Approval form (JUS 8718) and submit it via the chain of command to the appropriate Bureau Chief a minimum of one week prior to the event. A copy of the form, approved or disapproved, shall be returned to the requesting employee. The bureau shall maintain a copy of this form for one year from the date of the event.

### **1004.3 RAFFLES AND LOTTERIES**

Raffles and lotteries are unlawful pursuant to Penal Code § 319 and, therefore, are not permitted.

## **1010 Reporting of Employee Convictions**

### **1010.1 PURPOSE AND SCOPE**

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

The ATC SAS shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR § 9040).

The PSG SAC shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR § 9041).

### **1010.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS**

California Penal Code § 12021(c)(1) prohibits any person convicted of certain offenses including, but not limited to Penal Code §§ 273.5, 273.6 and 646.9, from lawfully possessing a firearm. Pursuant to the Federal Domestic Violence Gun Control Act (18 U.S.C. § 921(a) and 18 U.S.C. § 922(d)), any person who has been convicted of a misdemeanor domestic violence offense is prohibited from possessing any firearm or ammunition. Because such offenses may include any conviction involving the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child), employees shall promptly report any and all convictions of such nature.

Federal law also prohibits firearm possession by any individual who is the subject of a domestic violence restraining order. While this federal restriction does not apply to temporary restraining orders (18 U.S.C. § 922(d)(8)), California Family Code § 6389 does prohibit any individual from lawfully possessing a firearm if they are currently the subject of a domestic violence restraining order (including temporary and emergency orders). As such, employees shall promptly notify the Department if they become the subject of any temporary, emergency or permanent domestic restraining order.

### **1010.3 OTHER CRIMINAL CONVICTIONS**

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or *nolo contendere* plea.



Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.

#### **1010.4 REPORTING PROCEDURE**

All employees of this department and all retired agents with a CCW endorsement shall promptly notify their immediate supervisor (or the PSG SAC in the case of retired agents) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All sworn employees and all retired agents with a CCW endorsement shall further promptly notify their immediate supervisor (or the PSG SAC in the case of retired agents) in writing if the employee becomes the subject of a domestic violence restraining order issued by a court of competent jurisdiction.

A supervisor receiving such notification from his/her employee shall forward the written notice via the chain of command to the Bureau Chief. Upon receipt, the Bureau Chief will promptly notify the Deputy or Assistant Director.

Any employee whose criminal conviction unduly restricts or prohibits that employee from fully and properly performing his/her duties may be disciplined including, but not limited to being placed on administrative leave, reassignment and/or termination.

Any employee failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

#### **1010.5 PROCEDURE FOR RELIEF**

Pursuant to Penal Code § 12021(c)(2), a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 12021 will not relieve one of the restrictions imposed by federal law.

Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their

employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

### **1010.6 SUSPECTED CRIMINAL ACTIVITY**

If an employee is contacted by any law enforcement agency because he/she is suspected of engaging or having been engaged in any criminal conduct or act, he/she shall immediately, but no later than 24 hours after the contact, report the incident via the chain of command to his/her Bureau Chief. The Bureau Chief shall report the incident to the Deputy or Assistant Director immediately, but no later than 24 hours after the contact.

### **1010.7 FRATERNIZATION WITH KNOWN CRIMINAL SUSPECTS**

No employee shall fraternize with known criminal suspects. For the purpose of this policy, criminal suspects are individuals who are suspected of being or having been involved in:

- a. The actual or attempted planning, organizing, financing or commission of criminal acts,  
or
- b. Criminal activities with known or suspected crime figures.

## **1012 Alcohol and Drug Use**

### **1012.1 PURPOSE AND SCOPE**

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The California Department of Justice discourages alcohol and drug abuse and strives to achieve a work force free from the influence of drugs and alcohol.

### **1012.2 GENERAL GUIDELINES**

Department of Personnel Administration Rule 599.960(b)(2) provides that a State employee who is on duty or on stand-by for duty shall not use or be under the influence of alcohol to the extent that would impede the employee's ability to perform his/her duties safely and effectively.

Employees of this division, with the exception of the undercover exemption listed below, shall not drive a state vehicle with any alcohol or controlled substances in their system. No alcoholic beverage shall be consumed during duty hours, work breaks, or outside of duty hours prior to driving a state-owned or -leased vehicle, or a vehicle rented while on official state business.

The consumption of alcohol or other intoxicants is generally prohibited by on-duty personnel except as necessary in the performance of an official special assignment. Personnel who consume alcohol as part of a special assignment with the prior permission of the SAC/SAS shall not do so to the extent of impairing on-duty performance. The SAS shall ensure that agents who consume alcohol while acting in an undercover capacity do not participate in enforcement actions involving arrests, search or seizure, nor drive a vehicle while under the influence of alcohol at the conclusion of an undercover operation.

Employees who have consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect their senses or judgment shall not report for duty. Employees shall notify the SAC or appropriate supervisor as soon as they are aware that they will not be able to report to work. If an employee is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner.

No employee shall use any controlled substances except as prescribed by and under the direction of a licensed physician. No employee shall simulate using or ingesting drugs. If, by force or serious threat during a criminal investigation, an employee must use or simulate using a drug, he/she shall immediately report the incident to his/her immediate supervisor. The actual or simulated use shall be documented in the related investigation report. A memorandum detailing the circumstances shall be completed by the employee and submitted via the chain of command to their Bureau Chief. The appropriate supervisor or designee shall immediately take the employee for medical examination or treatment if necessary. Routine pursuit of an investigation is never justification for using or simulating the use of a controlled substance.

Consumption of alcoholic beverages by Division employees during Department- or Division-sponsored or other off-duty special functions (i.e. award ceremonies, graduations, retirements, etc.) is at the employee's discretion. The use of alcohol prior to driving a personal vehicle is discouraged; driving a State- or federally- funded vehicle while under the influence of alcohol is prohibited.

### **1012.2.1 PURCHASE OR POSSESSION OF DRUGS OR ALCOHOL ON DUTY**

Department employees shall not purchase or possess alcohol or other controlled substances on State property, at work, or while on duty except in the performance of a special assignment as described in Policy Manual § 1012.2.

### **1012.2.2 USE OF PRESCRIBED MEDICATIONS**

Any employee who is required to take any medication with side effects which might impair his/her ability to fully and safely perform all requirements of the position shall report the need for such medication to the immediate supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a department-owned or department-leased vehicle while taking such potentially impairing medication without a written release from his/her physician.

Possession of medical marijuana or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

### **1012.2.3 ENGAGING IN SCIENTIFIC OR MEDICAL PROJECTS**

No employee shall engage in any type of scientific or medical experiment in connection with controlled substances except as recommended by their Bureau Chief and authorized by the Deputy or Assistant Director.

### **1012.3 EMPLOYEE ASSISTANCE PROGRAM**

The Department recognizes that individuals may experience difficulties related to their work or their relationships with family, co-workers, supervisors, managers, or members of the public. The Department offers an Employee Assistance Program for all employees to receive support in handling personal or work-related difficulties that may arise.

The Employee Assistance Program is available to assist employees who wish to seek help for alcohol and drug problems. There is also available a variety of insurance coverage which provide treatment for drug and alcohol abuse. Employees may contact the DAS/Personnel Programs, their insurance provider, or the Employee Assistance Program for additional information. Employees who experience drug or alcohol problems are encouraged to seek referral for rehabilitation through the Employee Assistance Programs or their insurance provider.

It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

In addition to the Employee Assistance Program, the Division's Peer Support Program is available to all Division employees. Refer to the Peer Support Program policy, found in Policy Manual § 222.

## **1014 Sick Leave Policy**

### **1014.1 PURPOSE AND SCOPE**

Employees of this department are provided with a sick leave benefit that gives them continued compensation during times of absence due to personal or family illness. The number of hours available is detailed in the employee's respective personnel manual or applicable collective bargaining agreement. Employees may also be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 CFR 825). Refer to the Department's Attendances and Absences policy, found in DOJAM §§ 06400 et seq.

## **1016 Communicable Diseases**

### **1016.1 PURPOSE AND SCOPE**

Refer to DOJAM §§ 101110-101117, the BFS Policy and Procedures Manual, and DLE Safety Bulletin 04-02 for policies and procedures intended to minimize the risk of contracting and/or spreading communicable diseases.

## **1018 Smoking Policy**

### **1018.1 PURPOSE AND SCOPE**

This policy establishes limitations on the use of tobacco products by employees and others while on duty or while in Department facilities or vehicles.

### **1018.2 POLICY**

Smoking tobacco products is not permitted inside Department facilities or any Department vehicle. It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes any tobacco product inside Department facilities and vehicles.

No person shall smoke tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any Department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).



## **1020 Personnel Complaint Procedure**

### **1020.1 PURPOSE AND SCOPE**

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department.

#### **1020.1.1 PERSONNEL COMPLAINTS DEFINED**

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)). Personnel Complaints shall be classified in one of the following categories:

Category I: Complaints alleging misconduct involving actual or attempted physical contact; or criminal, immoral, or racial misconduct by an employee. Complaints of this nature may include, but are not limited to:

- Excessive use of force
- Theft
- Dishonesty
- Misuse of State equipment or resources
- Racial/sexual misconduct

Category II: Complaints alleging verbal misconduct or neglect of duty. Complaints of this nature may include, but are not limited to:

- Verbal discourtesy (including profanity)
- Improper shouting, sarcasm
- Minor policy and procedure violations

- Minor neglect of duty

Complaints against peace officers by members of the public which are determined to be frivolous are defined in the Code of Civil Procedure § 128.5. A complaint may be considered frivolous if it is completely without merit or if it was made for the sole purpose of harassing an opposing party.

## **1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

### **1020.2.1 AVAILABILITY OF COMPLAINT FORMS**

Personnel Complaint forms (DLE 144) will be maintained on the DLE Intranet.

### **1020.2.2 SOURCE OF COMPLAINTS**

- a. A Department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- b. A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- c. Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

### **1020.2.3 ACCEPTANCE OF COMPLAINTS**

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. Any personnel complaint made by a member of the public against an employee of this division shall be documented on a DLE 144 form. The completed DLE 144 shall be placed in a sealed envelope, marked "confidential," and immediately forwarded to the Professional Standards Group. Complaints against BMFEA employees should be submitted to the BMFEA Director via the chain of command; the BMFEA Director and Chief of Investigations will determine if a complaint is to be forwarded to the PSG.

The following should be considered before taking a complaint:

- a. Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
- b. When an uninvolved supervisor or the regional manager determines that the reporting person is satisfied that their complaint required nothing more than an explanation

regarding the proper/improper implementation of Department policy or procedure, a complaint need not be taken.

- c. When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form.
- d. Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

## **1020.2.4 COMPLAINT DOCUMENTATION**

Formal complaints of alleged misconduct shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. The employee taking the complaint shall read aloud to the complainant the advisement that appears in bold print on the DLE 144 and shall make a note of this on the form. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement; otherwise, the employee shall write "Complainant refused to sign" on the signature line. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

If a complaint is received by mail or fax, the employee receiving the complaint shall contact the PSG SAC to advise him/her that a complaint has been received. The employee shall place the completed form in a sealed envelope marked "confidential" and forward it to the PSG. Within five working days, PSG shall mail a completed DLE 144, along with an addressed return envelope, to the complainant with a request for him/her to review the form, read the advisement, and sign, date and return the form.

If a DLE 144 is received by mail or fax completed and signed by the complainant, the employee receiving the form shall sign, date and place it in a sealed envelope marked "confidential" and forward it to PSG.

If the complaint is received by telephone, the employee receiving the call shall complete an original DLE 144 and send it to PSG in a sealed envelope marked "confidential." Within five

working days, PSG shall mail the completed DLE 144 to the complainant with a request to review it for accuracy, read the advisement, sign and return the form.

If the complainant chooses to remain anonymous, the employee receiving the telephone call will fill out the DLE 144 to the best of his/her ability. Since subsequent contact with the complainant will generally be difficult, an effort shall be made to obtain sufficient information to allow a determination of the charges. The employee receiving the complaint shall indicate "anonymous complaint" in the space provided for the complainant's signature. The DLE 144 shall then be forwarded to PSG in a sealed envelope marked "confidential."

Immediately after receiving the DLE 144 and entering the information into the Citizen's Complaint Log, PSG shall notify the accused employee that a complaint has been received and an investigation initiated. This notification shall include a description of the alleged misconduct. If the accused employee is not identified in the complaint, the employee shall be notified and given a copy of the original complaint as soon as the agent establishes his/her identity.

### **1020.3 SUPERVISOR RESPONSIBILITY**

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Govt. Code 3303(i)).

The supervisor shall be responsible for the following:

- a. A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the regional manager, Bureau Chief and Deputy or Assistant Director are notified via the chain of command as soon as practicable.
- b. A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.
- c. When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly notify the EER&R Office and the Director, via the chain of command, and await direction regarding their role in investigation and/or addressing the complaint.

### **1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

## **1020.4.1 ADMINISTRATIVE LEAVE**

An employee placed on administrative leave may be subject to the following guidelines:

- a. Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- b. An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.
- c. An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- d. An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.
- e. At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned.

## **1020.5 ALLEGATIONS OF CRIMINAL CONDUCT**

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or agent shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Director shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Director may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal investigator.

No information or evidence administratively coerced from an employee may be provided to a criminal investigator.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction; however, no disciplinary action,

other than paid administrative leave, shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with department policy.

## **1020.6 ADMINISTRATIVE INVESTIGATION OF COMPLAINT**

Whether conducted by a supervisor or an assigned member of the Professional Standards Group, the following procedures shall be followed with regard to the accused employee(s):

- a. The assigned agent shall contact the complainant within five working days of receiving the case.
- b. Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated (Government Code § 3303(a)).
- c. No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).
- d. Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).
- e. All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated (Government Code § 3303(d)).
- f. No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal agent (Government Code § 3303(e)).
- g. Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).
- h. If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to *Lybarger (Lybarger v. City of Los Angeles (1985) 40 Cal.3d 822, 827)*. This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).

- i. All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview (Government Code § 3303(i)).
- j. All employees shall provide complete and truthful responses to questions posed during interviews.
- k. No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

### **1020.6.1 ADMINISTRATIVE SEARCHES**

An employee of this department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

- When the employee, whether on or off duty, is involved in a shooting or police related death.
- When the employee is involved in an injury or fatal accident while on duty.
- When the employee is involved in an injury or fatal accident while operating any State owned vehicle whether on or off duty.
- When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled testing results shall be restricted to the administrative investigation. Any employee may be compelled to disclose personal financial information pursuant to proper legal process if such information tends to indicate a conflict of interest with official duties, or if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309). All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

## 1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

**Introduction** - Include the identity of the employee(s), the identity of the assigned agent(s), the initial date and source of the complaint.

**Synopsis** - Provide a very brief summary of the facts giving rise to the investigation.

**Summary Of Allegations** - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence As To Each Allegation** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

## 1020.7 DISPOSITION OF PERSONNEL COMPLAINTS

Each allegation shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

**Exonerated** - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

**Not Sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.



## 1020.7.1 DISCIPLINARY ACTION

A sustained allegation may result in one of the following types of disciplinary action:

- a. **Informal** - Used by a supervisor/manager and an employee to plan the change(s) that must take place to correct the employee's conduct or performance within a specified time frame. The employee is not entitled to representation unless adverse action is contemplated. The primary forms of informal disciplinary action are corrective interviews and corrective memorandums.
  1. The Bureau Chief's approval must be obtained by the regional manager before informal disciplinary action may be initiated.
  2. The following language shall be incorporated into all corrective memorandums: "If you are experiencing personal problems that may be affecting your performance, you are encouraged to take advantage of the Department's Employee Assistance Program (EAP). Your conduct documented in this incident is unacceptable and will not be tolerated by the Department. If you engage in similar conduct in the future, the Department will take adverse action against you based on the incident(s) cited in this memorandum as well as any future incident(s). A copy of this memorandum will be placed in your personnel file. After [one (1) year to three (3) years - management determines the length of time] you can request from appropriate management [DLE Facility or Headquarters, depending on who issued the memo] that this document be removed from your personnel file, at which time your request will be considered. This incident will be noted in your next performance evaluation." The employee must sign and date the memorandum acknowledging receipt.
  3. Copies of all corrective memorandums shall be forwarded to the appropriate Bureau Chief for review prior to being issued. The Bureau Chief shall ensure that the original is forwarded to the appropriate personnel analyst for inclusion in the employee's unofficial personnel file.
- b. **Formal** - Used when informal disciplinary action has not corrected an employee's conduct or performance, or when there has been a serious infraction of law, rules, or standards. A formal disciplinary action, known as an adverse action, is recorded in the employee's official personnel records and may take one of the following five forms:
  1. Formal letter of reprimand.
  2. Suspension without pay.
  3. Reduction of pay within the class.
  4. Demotion to a lower class.

## 5. Dismissal from State service.

In addition, a supervisor may deny merit salary adjustments and special in-grade salary adjustments.

When regional management or a bureau program determines that formal disciplinary action is appropriate, they must first obtain approval from the Bureau Chief. The Chief shall submit the proposed adverse action request to the Office of the Director. If approved, the Director shall forward the request to PSG for processing. PSG shall maintain a file of completed adverse actions.

### **1020.8 COMPLETION OF INVESTIGATIONS**

Every agent or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation within a reasonable period following receipt. If the nature of the allegations dictates that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally charged. If the complaining party is charged with a criminal offense associated with this investigation, then the investigation may be suspended until the completion of the criminal trial. The investigation shall not be delayed or suspended because of any concurrent civil proceeding to which the complainant is a party except as advised by a Department attorney or requested by the accused employee awaiting representation. Any delay or suspension of an investigation requires the approval of the Deputy or Assistant Director.

Upon completion, the report should be forwarded through the chain of command to the Bureau Chief and Deputy or Assistant Director.

Once received, the Director may accept or modify the classification and recommendation for disciplinary action contained in the report. After the Deputy or Assistant Director's review, if corrective action is determined to be appropriate, the employee's supervisor shall be directed to take the appropriate action against the employee. If the Deputy or Assistant Director determines that a formal adverse action is appropriate, the PSG will prepare an adverse action package.

Within 30 days of the final review by the Director, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings; however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his/her own original complaint (Penal Code § 832.7).

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Director to discuss the matter further.

## **1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES**

All investigations of personnel complaints against peace officers of this department shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

All formal personnel complaints shall be maintained for a period of no less than five years (Penal Code § 832.5). All non-citizen (e.g., those that originate internally) initiated complaints shall be maintained no less than two years (Government Code § 34090 et seq.). After the minimum retention period, all frivolous, exonerated, or unfounded complaints and investigation files shall be destroyed with the following exceptions:

- a. Records of complaints that are subject to civil litigation or criminal proceedings shall be retained until final adjudication.
- b. Records of sustained and not sustained complaints shall be retained as long as the individual is employed by the Department. These records shall be destroyed five years after the employee has permanently separated from the Department.

Every investigation that results in a formal letter of reprimand, suspension, loss of pay, demotion in rank, or dismissal shall be documented in a Notice of Adverse Action. If the investigation results in informal, remedial or corrective action, the corrective documentation shall be placed in the employee's official and/or regional office/lab personnel files, as appropriate, and retained according to the employee's bargaining unit contract. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Professional Standards Group apart from the employee's personnel file.

## **1022 Seat Belts**

### **1022.1 PURPOSE AND SCOPE**

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in Department vehicles (Vehicle Code § 27315.5).

### **1022.2 WEARING OF SAFETY RESTRAINTS**

All employees shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty or in any privately owned vehicle while on-duty. The employee driving such a vehicle shall ensure that all other occupants, including non-employees, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the employee(s) or the public. Employees must be prepared to justify any deviation from this requirement.

#### **1022.2.1 TRANSPORTING CHILDREN**

Children under the age of 6 or who weigh less than 60 pounds should be transported in compliance with California's restraint system requirements (Vehicle Code § 27360).

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt (Vehicle Code § 27363(b) and Vehicle Code § 165).

Members should deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

#### **1022.4 INOPERABLE SEAT BELTS**

No person shall operate a Department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff who shall do so only with the express authorization of the Director.

Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

## **1025 Performance Evaluations**

### **1025.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines for the evaluation of each employee's conduct and performance during probation and annually after probation has been successfully completed.

### **1025.2 ANNUAL PERFORMANCE APPRAISALS**

Annual Performance Appraisal forms for sworn and civilian employees (JUS 141, 142, 143 and 502) are maintained on the DOJ Intranet. It is the responsibility of the employee's immediate supervisor to complete the appropriate appraisal form annually and discuss the appraisal with the employee in a timely manner. The completed annual performance report must be forwarded to bureau headquarters after review by the regional manager. Regional managers are ultimately responsible for implementing an annual performance appraisal schedule for the employees in their respective offices/labs and ensuring that timely performance reports are completed on all employees. If an employee is off work for a majority of the evaluation period, an annual appraisal is not required. However, a memo should be placed in the employee's personnel file stating the reason an appraisal was not completed for that time period. Each year when completing an employee's annual performance appraisal, the supervisor is expected to:

- a. Review the employee's training file for completeness. In addition, the training files for peace officers must be checked for compliance with POST training requirements.
- b. Review the employee's personnel file with the employee and purge inappropriate material in accordance with the timelines specified in Policy Manual § 1026.7.1.
- c. Review and update, if necessary, the employee's Emergency Notification Card.
- d. Check the employee's driving record and license status, if the employee's position requires driving.
- e. Inspect equipment and vehicle assigned to the employee, if applicable, and update the Individually Assigned Equipment Inventory form (JUS 1444). The results of these checks will be documented and attached to the annual performance report.

### **1025.3 PROBATION REPORTS**

Employees on probation shall have regular probation reports completed by their immediate supervisor to document progress or necessary modifications in behavior and/or work product before permanent civil service status is granted.

Bureau headquarters will send probation report forms to each regional office or unit approximately one month prior to their due date. However, it is the responsibility of the immediate supervisor to request such forms if they are not received and to ensure that the reports are completed and discussed with the employee at the time intervals designed for that particular classification. Regional managers are responsible for ensuring that their supervisors prepare probation reports in a timely manner. The completed probation reports must be forwarded to bureau headquarters after review by the regional manager.

The probationary period for an employee may be extended if the employee is off duty for a significant amount of time during the probation period (i.e., off duty because of a work-related injury, maternity leave, military leave, etc.). If a supervisor wishes to extend an employee's probation period, he/she should contact the personnel analyst in bureau headquarters to discuss and initiate the necessary procedures.

## 1026 Personnel Files

### 1026.1 PURPOSE AND SCOPE

This section governs the maintenance, retention and access to personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

### 1026.2 PEACE OFFICER PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual agent's name relating to:

- a. Personal data, including marital status, family members, educational and employment history, or similar information.
- b. Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.
- c. Election of employee benefits.
- d. Employee advancement, appraisal, or discipline.
- e. Complaints, or investigations of complaints, concerning an event or transaction in which the agent participated, or which the agent perceived, and pertaining to the manner in which the agent performed official duties.
- f. Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

### 1026.3 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

**Official Personnel File** - That file which is maintained by the Division of Administrative Support as a permanent record of employment with this department.

**Unofficial Personnel File** - That file which is maintained at the employee's regional office/lab containing copies of documents submitted for inclusion in the official personnel file, log entries, and written comments, including actual performance evaluations, made by a supervisor concerning the conduct of an employee of this department.



**Training File** - Any file which documents the training records of an employee.

**Internal Affairs Files** - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

**Firearms Qualification File** - That file maintained by the Rangemaster which contains firearms qualification records to document proficiency of agents assigned to that office.

**Background Files** - Those files compiled and maintained exclusively by the PSG containing materials relating to background investigations.

## **1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES**

Pursuant to Penal Code § 832.7, all of the above-defined personnel records, with the exception of the firearms qualification file, shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the Chief Deputy Attorney General, Attorney General or other attorneys or representatives of the State in connection with official business.

## **1026.5 REQUESTS FOR DISCLOSURE**

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the DLE Litigation Coordinator or BMFEA Chief of Prosecutions.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

### **1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION**

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved agent or written authorization of the Director or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146(e))

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the agent who is the subject of the investigation (or the agent's representative) publicly makes a statement which is published in the media and which the agent (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

## **1026.6 EMPLOYEE ACCESS TO OWN FILE**

Any employee may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s). Any employee seeking the removal of any item from his/her personnel file shall file a written request to the Bureau Chief through the chain of command. The Department shall thereafter remove any such item if appropriate or within 30 days provide the employee with a written explanation why the contested item will not be removed (Government Code 3306.5). If the contested item is not removed from the file, the employee's request and the Department's written response shall be retained with the contested item in the employee's personnel file.

Employees may be restricted from accessing files containing any of the following information:

- a. Ongoing Internal Affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline.
- b. Confidential portions of Internal Affairs files which have not been sustained against the employee.

An access log shall be located on the left-hand side of every unofficial personnel file. Whenever a personnel file is viewed, the person accessing the file shall sign the log.

## **1026.7 TYPES OF PERSONNEL FILES**

## 1026.7.1 OFFICIAL PERSONNEL FILE

The official personnel file, which is maintained by DAS, should contain, but is not limited to, the following: appointment documents, probationary reports, performance appraisals, letters of commendation, attendance records, health benefits information, and beneficiary designations. Specific documents included in the file include but are not limited to the following:

- a. Standard State Application (STD 678).
- b. Personnel Action Request (STD 680) and Employee Action Request (STD 686).
- c. Monthly Employee Leave Record (STD 642).
- d. Oath of Allegiance and Declaration of Permission to Work for Persons Employed by the State of California (STD 689), Annual Performance Appraisals, Report of Performance for Probationary Employee (STD 636), and military service information.
- e. Health benefits forms (HBD-12, STD 691, STD 700), Deferred Compensation (DCP 227), Designation of Person Authorized to Receive Warrants (STD 243), Authorization to Use Privately Owned Vehicle in State Service (STD 261).
- f. Accident Report (STD 268).
- g. Authorization for Extra Hours (STD 682).
- h. Absence and Additional Time Worked (JUS 634).
- i. Grievances.
- j. Disciplinary action.
  1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's official personnel file at least two years (Government Code § 34090).
  2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's official personnel file at least five years (Penal Code § 832.5).
  3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's official personnel file, but will be separately maintained for the appropriate retention period in the internal affairs file.

- k. Adverse comments may be retained in the Department official personnel file or Division file after the employee has had the opportunity to read and initial the comment and for a period up to two years (Government Code § 3305).
  - 1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
  - 2. Any such employee response shall be attached to and retained with the original adverse comment.
  - 3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- l. Commendations shall be retained in the employee's Department file, with a copy provided to the involved employee.
- m. Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status.

Medical and workers' compensation information is protected under the Health Information Portability and Accountability Act and must be protected from improper disclosure. Documents of this nature shall not be included in any employee's official or unofficial personnel file.

## **1026.7.2 UNOFFICIAL PERSONNEL FILE**

The unofficial personnel file maintained by the employee's regional office/lab should contain copies of all documents in the employee's official personnel file, with the exception of adverse actions, which shall only be retained by DAS and PSG. Each personnel file will contain a personnel access record to track the date the file was accessed; the name, rank, unit and signature of the person accessing the file; and the reason the file was accessed. The access record will also reflect the employee's access to, and review of, his/her file.

Each employee's unofficial personnel file shall be reviewed annually by the employee and his/her supervisor. This review is to be completed concurrently with the employee's annual performance appraisal. During the review of the file, inappropriate material should be purged. A list of the items purged from the file shall be sent to bureau headquarters so identical documents can be removed from the bureau personnel file. Following the review, the employee shall sign the access record acknowledging review of the file.

All rules of confidentiality and disclosure shall apply equally to the unofficial personnel file.

Unless directed by the task force council, task forces are not required to maintain unofficial personnel files. Those that do must maintain the files in accordance with this section. It is recognized that task force personnel files will not contain many standard state forms.

### **1026.7.3 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Group. Access to these files may only be approved by the Director or the supervisor of the Professional Standards Group. These files shall contain:

- a. The complete investigation of all formal complaints of employee misconduct, regardless of disposition.
  1. Each investigation file shall be sequentially numbered within a calendar year (e.g., yy-001, yy-002).
  2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).
- b. Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

### **1026.7.4 TRAINING FILES**

An individual training file shall be maintained by the regional office/lab or task force Training Coordinator for each employee. Training files will contain records of all training requests, certificates of completion, and other relevant documents.

- a. It shall be the responsibility of the involved employee to provide the Training Coordinator with evidence of completed training/education and the completed Training Attendance and Evaluation Report in a timely manner.
- b. The Training Coordinator shall ensure that copies of such training records and reports are placed in the employee's Training File and provided to the Training Officer.
- c. The Training Coordinator is also responsible for maintaining current records in the Automated Training Record System (ATRS) for each employee assigned to his/her office. Annual ATRS printouts will be reviewed by the employee and placed in the employee's training file.

- d. When an employee transfers to another bureau/regional office, his/her training file shall be forwarded to that office's Training Coordinator.

## **1026.7.5 MEDICAL INFORMATION**

No information which reveals an employee's medical history or medical condition is handled or retained by this division.

Workers' compensation forms and documents that do not contain personal medical information are maintained by the OD in a file separate from the employee's personnel file.

## **1026.10 OTHER PERSONAL RECORDS**

In addition to the files described in this policy, the Division also maintains certain personal information to facilitate contact with its employees in the case of an emergency.

### **1026.10.1 EMERGENCY NOTIFICATION CARDS**

Three (3) Emergency Notification Cards (JUS 117) will be completed and signed by each regional office/lab employee upon initial employment with the bureau. Each card must be signed and dated by the supervisor and the employee. Two cards will be forwarded to bureau headquarters and one card retained in the regional office/lab. Cards will be reviewed and updated by the employee, and initialed and dated by the supervisor, annually during the employee's annual performance appraisal.

Regional task forces will prepare one JUS 117 card for each employee and retain the cards at the task force office. The TFC will sign and date the cards at the time of the annual review/update.

JUS 117 cards will be stored in an office area that is secure from members of the public, yet accessible to all personnel, and shall not be removed from the office/lab or maintained by supervisors in the field. They may be destroyed when an employee terminates employment with the bureau or task force.

### **1026.10.2 EMPLOYEE ROSTERS**

Any document or roster containing employees' personal contact information, including home addresses, will be stored in the office/lab in an area that is secure from members of the public, yet accessible to all personnel. Such information is not to be removed from the office/lab unless authorized by the regional manager.

### **1026.10.3 UPDATING CONTACT INFORMATION**

All regional office/lab and task force employees shall immediately report any change of name, personal home address, phone number, work location, emergency contact person(s) or personal physician/health care information to their supervisor or regional manager. The supervisor or regional manager shall ensure that the changes are reflected on the employee's JUS 117 and office/lab roster and, with the exception of task force employees, two copies of the updated JUS 117 are forwarded to bureau headquarters. Headquarters will update the bureau's employee roster as appropriate.

## **1028 Request for Change of Assignment**

### **1028.1 PURPOSE AND SCOPE**

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

### **1028.2 TRANSFER LISTS**

Special Agents and Special Agent Supervisors wishing to transfer to another bureau, unit, or geographical location are to complete a Request for Transfer form (JUS 1411). The form should then be forwarded through the chain of command to their Bureau Chief. Upon receipt of the approved JUS 1411, the OD will add the individual to the appropriate transfer list. Refer to the current Unit 7 collective bargaining agreement for the complete transfer policy and procedures applicable to agents.

### **1028.3 SUPERVISOR'S COMMENTARY**

The SAC shall make appropriate comments in the space provided on the form before forwarding it to the Bureau Chief of the employee involved. If the SAC does not receive the JUS 1411, the Bureau Chief will initial the form and return it to the employee without consideration.



## **1030 Employee Commendations**

### **1030.1 PURPOSE AND SCOPE**

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

It is not the intent of this policy to supersede State-level award programs such as the Attorney General Awards (Government Code § 19823). The most current information pertaining to the Attorney General Awards is released annually in the form of an administrative bulletin.

### **1030.2 WHO MAY MAKE COMMENDATIONS**

Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

### **1030.3 COMMENDABLE ACTIONS**

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee.
- Conspicuous bravery or outstanding performance by any employee of the Department.
- Any action or performance that is above and beyond the typical duties of an employee.
- Exceptional performance by a unit or section.
- A significant contribution to the health and/or public safety of the citizens of the State of California that represents the Division's core values: integrity, teamwork, service and excellence.

### **1030.4 DIRECTOR'S AWARD**

The Director's award is designed to recognize exceptional performance by sworn and professional staff both as individuals and as teams who distinguished themselves through their outstanding contribution(s) to public safety, investigative accomplishments, or special projects. This award is a certificate presented by the Director at the annual Division of Law Enforcement Awards Ceremony. One award will be granted in each of three categories: team award, peace officer award, and professional staff award.

Nominations for the Director's award are made in the following manner:

- a. Any employee may make a nomination. The nomination shall be submitted to the individual's immediate supervisor.
- b. The supervisor shall prepare a nomination package consisting of a memorandum and any supporting documentation. The memorandum must include the nominee's name (as it should be printed on the award), civil service classification, bureau, organizational unit, office location, and the name of a contact person.
- c. The supervisor shall forward the nomination package through the chain of command to the Bureau Chief. The Bureau Chief will select the bureau's final nominees and forward those nomination packages to the Director. Each bureau may make one nomination for each of the three awards.
- d. The Director will select the award recipients. At that time, the supervisors of the award recipients will each be asked to prepare a citation suitable for the Director to use when presenting the award.

### **1030.5 BUREAU AWARD**

A Bureau Award may be initiated by the Bureau Chief or requested by regional management. A request from regional management must be submitted to the Bureau Chief in memorandum format and must include a description of the circumstances under which the commendable action was performed. A Bureau Award may be presented in one of the following formats:

- a. Formal Letter of Commendation - Issued by the Bureau Chief at his/her discretion to employees in those cases where the work performed by the employee has been of outstanding quality. Examples may include superior handling of a difficult situation, conspicuous bravery, and any action that is above and beyond the typical duties of the employee.
- b. Unit Citation - Awarded to units or sections that make an outstanding contribution to the overall efforts of their parent bureau and its mission.
- c. Certificate of Commendation - Awarded to employees below the rank of Assistant Chief, outside law enforcement personnel, or private citizens for performing an act or making an outstanding contribution to the prevention and suppression of crime. Certificates of commendation may also be awarded to personnel retiring from law enforcement service, provided the recipient retires from a recognized law enforcement agency in good and honorable standing.

Copies of the awards described in this section shall be included in the employee's personnel files.

## **1030.6 COMMENDATIONS FROM OUTSIDE AGENCIES**

Copies of any letter of commendation sent by an outside agency to, or on behalf of, an employee of this division shall be included in the employee's personnel files. A copy shall also be given to the employee. The responsible regional manager shall send a letter acknowledging receipt of the letter of commendation to the appropriate agency. A copy of the acknowledgment letter shall also be included in the employee's personnel files.

## **1030.7 SPECIAL AGENT AWARDS**

The Special Agent Awards Program was established January 1, 1998, to recognize acts of valor and meritorious service by agents of this division. These are considered prestigious awards, comparable to, and of the same significance as, personal distinguished service decorations granted to military and civilian employees of the federal government.

The five medals awarded by this division are the Special Agent Medal of Valor, the Special Agent Medal of Meritorious Service, the Special Agent Medal of Purple Heart, the Special Agent Medal of Distinguished Service, and the Special Agent Medal of Lifesaving. All agent personnel, regardless of rank, are eligible to receive these awards.

### **1030.7.1 AWARD CRITERIA**

The following criteria shall be used to determine the appropriate level of award recognition:

- a. Special Agent Medal of Valor - Awarded for an act, or acts, of heroism far above and beyond that which would be expected in the line of duty, when:
  1. Failure to take such action would not result in censure;
  2. The risk of life actually existed and the agent had sufficient time to evaluate it, or a reasonable person would have assumed his/her life was in great danger;
  3. The agent accomplished the objective or was prevented from same by incurring a disabling injury or death; and
  4. The objective was of sufficient importance to justify the risk.
- b. Special Agent Medal of Meritorious Service - Awarded for the performance of an act, or acts, under emergency conditions where bravery is involved but is not far above and beyond the normal call of duty as delineated in the criteria for the Special Agent Medal of Valor Award.
- c. Special Agent Medal of Purple Heart - Awarded to agents who, while in the performance of their official duty, sustain a serious wound or great bodily injury either caused by a hostile person and/or resulting from actions worthy of the award of the Special Agent Medal of Valor or the Special Agent Medal of Meritorious Service Award.

- d. Special Agent Medal of Distinguished Service - Awarded for performing a particular outstanding service that brings credit to law enforcement in its highest tradition. Such service may be of a specific instance, or it may be an outstanding performance of general duties over an extended period of time. The award may be administered for performance extending beyond the normal work assignment.
- e. Special Agent Medal of Lifesaving - Awarded for extraordinary efforts in grave situations to protect or preserve human life not otherwise recognized. The Medal of Lifesaving shall be presented when an agent was directly responsible for the saving of a human life or for having performed emergency medical aid that results in the saving of a human life.

### **1030.7.2 AWARD DESCRIPTION**

The design of each medal is described in this section. Every medal is accompanied by a lapel pin in the color(s) of the neck strap and a citation summarizing the act(s) for which the award was bestowed. Citations are signed by the Attorney General, the Director and the recipient's Bureau Chief.

- a. The Special Agent Medal of Valor Award shall consist of a gold-colored medal attached to a blue and gold neck strap.
- b. The Special Agent Medal of Meritorious Service award shall consist of a gold and silver-colored medal attached to a blue and silver neck strap.
- c. The Special Agent Medal of Purple Heart Award shall consist of a silver-colored medal attached to a purple neck strap.
- d. The Special Agent Merit of Distinguished Service shall consist of a silver-colored medal attached to a red, white and blue neck strap.
- e. The Special Agent Medal of Lifesaving shall consist of a silver-colored medal attached to a red and white neck strap.

### **1030.7.3 REQUIRED INVESTIGATION, REPORT CONTENT AND TRANSMITTAL**

When information is received from any Division personnel, a private citizen, a peace officer from an outside agency, or any other credible source which meets the criteria for any of the Special Agent Awards described in this policy, a SAC or above from the nominee's division shall cause an investigation to be conducted. If the results of the investigation support recognizing the act(s) with one or more of the Special Agent Awards, the SAC or above shall prepare a report of the nominated agent's actions, which will constitute the basis for the proposed official commendation. In addition to the recommendation of the SAC or above, the report shall also provide information required to substantiate the proposed award, including the following:

- a. Name of SAC or above nominating the agent;

- b. Nominee's name(s);
- c. Nominee's bureau and office location;
- d. Date of incident;
- e. Location of incident;
- f. Summary of action;
- g. Extent of injuries to anyone involved in the incident, if any;
- h. Copies of police, fire, or other emergency reports, if available;
- i. Statements of supervisors, other officers, employees, or eyewitnesses that substantiate the nomination;
- j. Copies of newspaper articles, if any;
- k. Photographs or sketches that help portray the incident;
- l. Any other information considered pertinent to the nomination; and
- m. The SAC's recommendation as to which award(s) should be given.

If approved by the nominee's Bureau Chief, the award nomination shall be submitted to the Special Agent Awards Review Board Chairperson, who shall call a meeting of the Special Agent Award Review Board.

#### **1030.7.4 SPECIAL AGENT AWARD REVIEW BOARD**

The Special Agent Award Review Board (Board) was established for the purpose of reviewing nominations for all five award categories and making recommendations to the Chief Deputy Attorney General. While the Board considers nominations submitted for acts that are consistent with the established award criteria, the Board may also, at its discretion, consider additional circumstances not specifically delineated in this policy.

- a. The Board shall be comprised of five voting members and two non-voting members, as follows:
  - 1. The Chiefs of the BGC, BI, BOF, and Bureau of Medi-Cal Fraud and Elder Abuse, or their designees;
  - 2. The President of the Association of Special Agents or his/her designee;
  - 3. The DLE Training Officer, who will serve as the non-voting Board Chairperson; and
  - 4. A tactical, training, or other appropriate expert from the nominee's bureau, who will serve in a non-voting advisory capacity.

- b. The Board will convene at the call of the Chairperson, who will notify each Board member by memorandum of the meeting date, time, and location.
- c. The Chairperson will submit a report to the Director advising him/her of the Board's recommendations, which will then be forwarded to the Chief Deputy Attorney General for approval.

### **1030.7.5 PRESENTATION**

Special Agent Awards are presented by the Director at a time and place of his/her choosing.

## **1032 Fitness for Duty**

### **1032.1 PURPOSE AND SCOPE**

All agents are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all agents of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

### **1032.2 EMPLOYEE RESPONSIBILITIES**

- a. It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- b. Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- c. During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- d. Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### **1032.3 SUPERVISOR RESPONSIBILITIES**

- a. A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- b. Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- c. In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- d. In conjunction with the SAC or employee's available Bureau Chief, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.

- e. The Director shall be promptly notified in the event that any employee is relieved from duty.

### **1032.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

### **1032.5 WORK RELATED CONDITIONS**

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the SAC or unit supervisor and concurrence of a Bureau Chief, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- a. A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate,
- b. The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

### **1032.7 LIMITATION ON HOURS WORKED**

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour period) or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, training, general overtime and any other work assignments.



## **1035 Lactation Break Policy**

### **1035.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (29 USC § 207 and Labor Code §§ 1030-1032).

### **1035.2 POLICY**

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207 and Labor Code § 1030).

### **1035.3 LACTATION BREAK TIME**

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify their supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### **1035.4 PRIVATE LOCATION**

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207 and Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

### **1035.5 STORAGE OF EXPRESSED MILK**

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

## **1036 Time Reporting**

### **1036.1 PURPOSE AND SCOPE**

This policy sets forth the requirements and procedures for reporting time worked and, if applicable, completing daily activity logs. The Department's Input Form (JUS 634) may be generated electronically by the online Time Reporting System (TRS) or completed manually using the paper form. Activity logs are completed exclusively in TRS.

#### **1036.1.1 RESPONSIBILITY FOR COMPLETION OF JUS 634s**

Employees are responsible for the accurate and timely submission of JUS 634s for the payment of wages.

### **1036.2 POLICY**

All DLE employees below the rank of SAC are required to utilize TRS, which is accessed through the DOJ Web portal on the Department's Intranet home page, for their monthly time entries. Agents shall submit time entries at least weekly.

All BMFEA employees, and all DLE employees at or above the rank of SAC, shall submit a completed paper JUS 634 form on a monthly basis.

### **1036.3 TRS TIME ENTRY REQUIREMENTS**

Time shall be entered into TRS using the following format:

- a. Time worked:
  1. Activity start and end times, in military time format
  2. Case number, if applicable
  3. Program code
  4. Function code
  5. Activity code
  6. Grant code, if applicable
  7. Comments (C), if required (see § 1036.4)

- b. Leave time:
  - 1. Start and end times
  - 2. Leave code
  - 3. Leave comments, if any

Most civilian employees have default program, function, and activity codes that do not need to be changed. Agents are required to create a separate entry for each activity.

Each regional office/lab has a TRS Coordinator who is available to set up TRS accounts and provide assistance to TRS users. Additionally, the TRS Manual is available in each regional office/lab.

### **1036.4 ACTIVITY LOG ENTRY REQUIREMENTS**

Each agent shall include, in chronological order, a clear narrative of any significant actions initiated and other pertinent data in the "Comments" section of each of his/her time entries. This narrative, which is referred to as the agent's activity log, shall include but is not limited to the investigation number(s), name(s) of person(s) contacted, what prompted the action, any investigative steps taken, and the outcome.

The activity logs are not printed or retained anywhere other than in TRS.

### **1036.5 TRS APPROVAL REQUIREMENTS**

Supervisors are required to approve their employees' TRS entries on a monthly basis. Approval of a time entry also indicates approval of the content of the corresponding activity log entry. The SAS shall ensure that the agents under his/her command report their time and activities in accordance with this policy. No acting SAS shall approve his/her own TRS entries.

Each SAC shall review and approve or disapprove the TRS time and activity log entries submitted by every SAS and other agent reporting directly to him/her on a monthly basis.

## **1040 Outside Employment**

### **1040.1 PURPOSE AND SCOPE**

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Director prior to engaging in any outside employment. No member of this division shall engage in any employment which is clearly inconsistent, incompatible, or in conflict with the duties of DOJ officers and employees (Government Code § 19990 and the Incompatibility Statement of the Department of Justice (JUS 1401)).

Approval of outside employment shall be at the discretion of the Attorney General in accordance with the provisions of this policy.

#### **1040.1.1 DEFINITIONS**

**Outside Employment** - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

### **1040.2 OBTAINING APPROVAL**

No member of this department may engage in any outside employment without first obtaining prior written approval of the Director. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application (JUS 8719) which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Director for consideration. If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the calendar year in which the permit is approved. The employee is responsible for ensuring that the JUS 8719 is reviewed and re-signed annually. Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

#### **1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT**

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Director within ten days of the date of

denial. If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU). Non-represented employees may appeal in accordance with California Code of Regulations, Title 2, § 599.859.

## **1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS**

Any outside employment permit may be revoked or suspended under the following circumstances:

- a. Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Director may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit.
- b. Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline.
- c. If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked.
- d. When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be rescinded until the employee has returned to a full duty status.

## **1040.3 PROHIBITED OUTSIDE EMPLOYMENT**

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- a. Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage.
- b. Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department.

- c. Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department.
- d. Involves time demands that would render performance of the employee's duties for this department less efficient.

### **1040.3.1 OUTSIDE SECURITY EMPLOYMENT**

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside employment as a private security guard, private agent or other similar private security position. This provision is applicable whether or not the employee is compensated.

### **1040.3.3 SPECIAL RESTRICTIONS**

Except for emergency situations or with prior authorization from the Bureau Chief, undercover agents or agents assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the agent's law enforcement status.

### **1040.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

#### **1040.4.1 REVIEW OF FINANCIAL RECORDS**

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest pursuant to Government Code § 3308. Prior to providing written approval for an outside employment position, the Department may request that an employee provide his or her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his or her personal financial records for review/audit. If the employee elects not to provide the requested records, his or her off-duty work permit may be revoked pursuant to Policy Manual § 1040.2.2(c).

## **1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Director through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Director any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment.

Employees who are uncertain whether a change in outside employment is material are advised to report the change.

## **1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY**

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Director whether such outside employment should continue.

In the event the Director determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit. Criteria for revoking the outside employment permit include, but are not limited to, the following:

- a. The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the State's professional medical advisors.
- b. The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- c. The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the California Department of Justice, a request (in writing) may be made to the Director to restore the permit.

## **1040.7 INCOMPATIBILITY REVIEW OF NON-EMPLOYMENT ACTIVITIES**

When an employee learns that a matter assigned to him/her relates to any act or activity undertaken in the employee's private capacity, or if the employee wishes to seek a prior



determination as to whether his/her private activity may be incompatible with his/her duties, the employee shall notify his/her supervisor in writing of the potential incompatibility. The supervisor, or the regional manager if the supervisor cannot make a determination, shall respond in writing as to the incompatibility of the activity and shall send a copy of such instructions, via the chain of command, to their Bureau Chief. The Bureau Chief shall forward a copy to the Deputy or Assistant Director within 24 hours of receipt.

If the employee disagrees with the decision of his/her supervisor, he/she may request review of the decision by their Bureau Chief and the Deputy or Assistant Director.

## **1041 Employee Separations and Transfers**

### **1041.1 PURPOSE AND SCOPE**

The Department's separation, transfer and retirement procedures are found in DOJAM Chapter 6, section 10. This policy outlines requirements that are specific to this division.

### **1041.2 POLICY**

Upon notice that an employee is leaving a bureau through retirement, termination, transfer, promotion, leave of absence or resignation from state service, the regional manager shall immediately notify the Bureau Chief and the bureau personnel liaison.

The bureau personnel liaison shall ensure the appropriate forms are processed as required by DOJAM Chapter 6, section 10. If the employee is a peace officer or dispatcher, a POST Notice of Appointment/Termination (POST 2-114) must also be completed and submitted to POST according to the instructions on the form. The regional manager shall ensure that BTRS, CIMS, and organization charts are updated as appropriate.

## **1044 Personal Appearance Standards**

### **1044.1 PURPOSE AND SCOPE**

Employees of this division are expected to wear attire that is appropriate for the duties of their position and consistent with the professional environment of the Division.

### **1044.2 GROOMING STANDARDS**

Employees shall be well-groomed, clean and appropriately attired at all times while on duty. All employees shall avoid wearing clothing, jewelry and other accessories that may present a safety hazard.

It is understood that employee attire and grooming standards may differ depending on the bureau and nature of the assignment. Regional management, through the appropriate Bureau Chief, shall have discretion to determine appropriate dress and reasonable grooming based on operational need.

### **1044.3 TATTOOS**

While representing the Department in any official capacity (i.e., serving a search warrant, appearing in court, attending a recruitment event, etc.), every reasonable effort should be made to conceal tattoos or other body art. At no time while representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those which depict racial, sexual, discriminatory, gang-related, or obscene language.

### **1044.4 BODY PIERCING OR ALTERATION**

Body piercing, dental ornamentation, or alteration to any area of the body that is a deviation from normal anatomical features and which is not medically required is prohibited from being displayed while representing the Department in any official capacity. Such body alteration includes but is not limited to:

- a. Tongue splitting or piercing.
- b. The complete or trans-dermal implantation of any material other than hair replacement.
- c. Abnormal shaping of the ears, eyes, nose or teeth
- d. Branding or scarification.

## **1046 Uniform Regulations**

### **1046.1 PURPOSE AND SCOPE**

The uniform policy of the California Department of Justice is established to ensure that uniformed agents will be readily identifiable to the public through the proper use and wearing of department uniforms when participating in field enforcement operations. Employees should also refer to the following associated Policy Manual sections:

- Section 700 Department-Owned and Personal Property
- Section 1044 Personal Appearance Standards

### **1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT**

Agents are required to wear appropriate DOJ-issued Battle Dress Uniforms (BDU) and safety equipment as specified by this policy. Notwithstanding the type or level of uniform selected for any activity, consistency in appearance is required. The SAS/TFC or designee shall ensure that all personnel participating in field enforcement operations wear the same level of approved uniform to ensure a consistent appearance.

### **1046.3 RAID UNIFORMS**

#### **1046.3.1 PLANNED EVENTS**

Planned events are defined as enforcement actions such as the service of arrest or search warrants, residence parole and probation searches, undercover operations with a separate, pre-designated arrest team, or other high-risk enforcement operations. The full raid uniform for planned events consists of the following:

- a. Black-colored BDU consisting of long- or short-sleeved shirt, trousers, and boots. The wearing of the long-sleeved shirt versus the short-sleeved shirt shall be at the discretion of the SAS. The black DOJ windbreaker or foul weather jacket may be worn in conjunction with the BDU but not as a substitute for the black BDU shirt.
- b. Ballistic vest.
- c. Helmet.
  1. Wearing of the helmet is required during search warrant services, with the exception of business location searches. In all other activities, its use is at the SAS's discretion.

- d. DOJ-issued safety equipment consisting of handgun, web belt, holster, dual magazine pouch, handcuffs, ASP baton, OC Aerosol canister, and portable radio.
- e. DOJ-issued tactical vest cover or load bearing vest, if desired.
- f. The raid uniform described above may be waived in full or in part under the following circumstances:
  - 1. **Business Locations** - The SAS may waive the raid uniform when agent personnel are serving a search warrant for documentary evidence at a recognized business location not owned or controlled by the suspect(s) or associate(s) (i.e., a medical office or financial institution), and an arrest is not anticipated.
  - 2. **“Knock and Talks”** - When agent personnel are making contact at a private residence for the purpose of gathering information or initiating a consensual encounter, the SAS may waive elements of the raid uniform at his/her discretion. At a minimum, agents shall be required to wear their DOJ-issued safety equipment, boots, and either a BDU shirt worn over their ballistic vest or a DOJ-issued load bearing vest equipped with ballistic panels. The SAS shall ensure that all agents participating in the enforcement action present a consistent appearance and are clearly identifiable as DOJ Special Agents at all times.
  - 3. **Highly Sensitive Investigations** - When an investigation is deemed "highly sensitive" by the Bureau Chief, the requirement to wear the raid uniform may be waived; if so, the SAC shall write "highly sensitive," the date, and sign his/her name across the top of the first page of the Operation Plan.

### **1046.3.2 UNPLANNED EVENTS**

Unplanned events are defined as those instances in which it was not previously anticipated that an arrest or entry would occur. This includes "in-progress" type crimes and entries made under exigent circumstances. Agent personnel performing these types of actions shall wear at a minimum:

- a. DOJ-issued black mesh jersey, windbreaker, tactical vest cover or load-bearing vest.
- b. Ballistic vest.
- c. Helmet, if appropriate.
- d. DOJ issued or previously authorized safety equipment as listed in § 1046.3.1(c).
- e. Appropriate additional tactical equipment as approved by the SAC.

### **1046.3.3 CLANDESTINE LAB ENTRY**

Clandestine lab entries are defined as those entries into known or suspected operational clandestine labs by members of a clandestine lab team that have been issued DOJ lab safety equipment and are trained to conduct such investigations. Participants in such entries are required to wear the following:

- a. DOJ-issued black colored Nomex BDU with full identification patches.
- b. Ballistic vest and helmet.
- c. DOJ-issued or previously authorized safety equipment consisting of handgun, web belt, holster, dual magazine pouch, handcuffs, ASP baton, OC spray, and portable radio.
- d. DOJ-issued tactical vest cover or load bearing vest, if desired.
- e. Appropriate additional, DOJ-approved, tactical equipment as required by the responsible SAC.
- f. Other personal protective equipment items issued by DOJ or listed in the DLE Clandestine Laboratory Manual under the Personal Protective Equipment Section.

### **1046.3.4 SPECIAL ENFORCEMENT DETAILS**

Special enforcement details are defined as low crawls, rural listening/observation post assignments, long gun/observer assignments, and marijuana eradication activities. DLE recognizes the need for alternatives to the standard BDU during special enforcement details. Agents may have a need to wear a DOJ-approved camouflage uniform that blends with the environment.

With the case-specific approval of the SAC, agents conducting covert special enforcement details may wear a camouflage uniform. The approved uniform is the Tactical Response Uniform (TRU) manufactured by TRU-SPEC in the Multi-Cam pattern. The Woodland and Desert patterns are no longer authorized for use by DLE agents. The snow camouflage design may be worn, when appropriate.

The tan and green Multi-Cam patches specified in Policy Manual § 1046.4 shall be sewn onto Multi-Cam TRUs. The patches shall be of the same design and placed in the same location as the standard patches. All agent personnel conducting special enforcement details, with the exception of overt eradication operations, shall wear the following attire/equipment:

- a. Multi-Cam TRU with the approved Multi-Cam identification patches (including the police patch on the back).

- b. DOJ-issued ballistic vest.
- c. Helmet (if appropriate).
- d. DOJ-issued load bearing vest (if desired).
- e. Appropriate DOJ-approved, additional tactical equipment as authorized by the responsible SAC.

Agents are not to wear camouflage uniforms while participating in overt eradication operations, such as the Campaign Against Marijuana Planting (CAMP). The uniform approved for eradication and other overt rural operations is described in Policy Manual § 1046.3.5.

No agent may take part in a raid entry while wearing a camouflage uniform unless there is an emergency situation. Agents wearing camouflage uniforms may assist with prisoner security, site security, or search for evidence once the initial raid team has secured the scene. Nothing in this section prohibits the wearing of camouflage uniforms during training exercises.

### **1046.3.5 ERADICATION OPERATIONS**

The Olive Drab (OD) Green Uniform is authorized and encouraged for use in eradication and other overt rural operations. Agent safety may be compromised by wearing camouflage in these situations, because others may be unable to distinguish the agent from a suspect. The OD Green Uniform is widely recognized by law enforcement officers statewide and is used by CAMP.

OD Green Uniforms may be purchased by individual agents or offices and shall be affixed with authorized green and black OD Green Uniform patches.

### **1046.3.6 LOAD BEARING VESTS**

For the purpose of this policy, a load bearing vest is defined as a non-ballistic vest of fabric construction. The vest design includes various DOJ-approved equipment pouches affixed to the exterior of the vest which allow the wearer to carry specific law enforcement equipment during enforcement operations. The vest has the DOJ-approved law enforcement identification patches on the front and back to identify the wearer as a law enforcement officer. Load bearing vests shall not be altered without previous written approval of the DLE Firearms Officer and the Deputy or Assistant Director.

- a. The following DOJ-issued load bearing vests are authorized for use during field enforcement operations:
  - 1. Modular pouch load bearing vest manufactured by Safariland, Ltd. This vest is issued with two (2) "fixed" pouches; a medical (PTK) pouch and a large back pouch.

All other pouches are modular and can be placed on the vest by the wearer in accordance with this order. A maximum of four additional pouches can be placed on the vest.

2. In the past, the DOJ issued a limited number of load bearing vests which were purchased for the Violence Suppression Program. These vests are of a "fixed" pouch design, and as such, are authorized for use as designed until they become unserviceable. When deemed unserviceable, they will be replaced with the new modular load bearing vest.
  3. With the case-specific approval of the appropriate SAC, previously DOJ-issued, military style load bearing equipment, intended to be used solely for rural operations such as CAMP and counter-sniper deployments, may be utilized.
- b. The load bearing vest may be worn during all field enforcement activities, to include the service of arrest and search warrants, undercover "buy/bust" operations, probation/parole searches, and crime scenes.
1. The load bearing vest is not a substitute for the DOJ-issued BDU that must be worn during planned enforcement activities.
  2. In all cases, a DOJ-issued ballistic vest shall be worn under the load-bearing vest.
- c. Equipment pouch placement:
1. Only equipment issued by DOJ may be carried on the vest. The pouches shall carry the equipment for which they were designed. The following denotes the approved placement of the modular pouches on the Safariland load bearing vests for a right-handed shooter; a left-handed shooter would mirror the stated placement directions:

<b>Equipment Pouch Placement</b>		
<b>Pouch #</b>	<b>Description</b>	<b>Placement</b>
D-1	Long Arm Magazines (MP5-M4, HK53)	Front of vest, parallel to the center zipper.
D-2	Shotshell Ammunition	Front of vest, parallel to the center zipper.
D-3	Side Arm Magazines	Opposite side of handgun along the belt line or horizontal on the chest on the opposite side as the handgun.
D-4	Side Arm/Long Arm	Front of vest, parallel to the center magazine zipper.
D-5	Side Arm Magazines Handcuff	Front or side of vest so as not to interfere w/handgun placement on the web belt.



D-7	Dual Distraction Pouch	Front of vest, either side, not to interfere with the handgun.
D-8	Less Lethal Pouch	Front or side of vest, opposite of handgun side.
D-9 A-G	Blank Pads	Any blank area of vest.
D-11	8" x 8" Utility Pouch	Front or side of vest, opposite of handgun side.
D-12	4" x 8" Utility Pouch	Mounted vertically or horizontally on front or side of vest, not to interfere with the handgun.
D-13	6" x 8" Utility Pouch	Mounted vertically or horizontally on front or side of vest, not to interfere with the handgun.
D-14	Radio Pouch	Side of vest, opposite of handgun side, or rear shoulder of vest.
D-16	37/40 mm Ammunition	Front of vest, either side, not to interfere with the handgun.
D-27	Hydration System	Back of vest, as long as it does not block or interfere with the visibility of the "California DOJ Police" patch.

### **1046.3.7 TACTICAL VEST COVERS**

Black tactical vest covers shall be issued to all agents. They are designed with stationary equipment pouches and are affixed with the patches specified in § 1046.4(a)(2-4). The tactical vest cover may be worn on its own in place of the load bearing vest; alternatively, the panels from a ballistic vest may be inserted into the tactical vest cover, eliminating the need to wear two separate vests.

### **1046.3.8 FOUL WEATHER JACKETS**

The OD issues foul weather jackets to all sworn personnel. The jackets shall bear all identification patches as previously outlined in this section. The approved jacket is identified as the BLAUER model # 9300Z All-Weather Jacket, black in color. The jacket may be worn with the DOJ-issued uniform. The jacket is not a substitute for the required BDU shirt or mesh jersey.

### **1046.3.9 PURCHASING AND REPLACEMENT OF UNIFORM EQUIPMENT**

In order to ensure Division-wide standards, all purchases and replacements of any of the items described in this policy shall be approved by the Firearms Officer.

Unserviceable items are to be surveyed per established procedures. No item described in this policy may be transferred to a task force or allied agency, even if it has been deemed unserviceable.

### **1046.3.10 EQUIPMENT INSPECTIONS**

Each SAC is responsible for conducting biannual inspections of the BDUs, foul weather jackets, wind breakers, mesh jerseys, and load bearing vests assigned to agents under his/her command. The inspections are to be conducted during field operations and firearms training/qualification sessions. The purpose of the inspection is to ensure that all such items are being maintained in a condition that enhances officer safety and professional appearance.

### **1046.3.11 FACIAL COVERINGS**

The DLE recognizes the need for the use of facial coverings (Nomex Balaclavas or face paint) during specific tactical operations. Their use is restricted to the following conditions:

- a. Balaclavas may be worn while entering into a clandestine laboratory for protection from a flash fire. As soon as the flash fire threat has passed, they shall be removed. When Nomex Balaclavas are used in conjunction with an entry, they shall be worn with the DOJ Nomex raid uniform (BDU).
- b. Balaclavas may be worn by the air crew and insertion team during a tactical aerial insertion. The insertion team shall remove the Balaclavas prior to making entry to the raid site if the location is not a suspected clandestine lab.
- c. Facial coverings may be worn in conjunction with a covert operation during which the agents do not want to be detected (i.e. observation posts, recon teams, intelligence gathering, etc.) and enforcement action is not anticipated.
- d. No agent should make entry while wearing camouflage face paint unless it is an emergency.

### **1046.3.12 BALLISTIC SHIELDS**

A ballistic shield may afford an added level of protection during tactical operations. If ballistic shields are available, their use should be considered when planning tactical/enforcement activities. Ballistic shields shall be used in accordance with DLE training standards and, except in an emergency, may be used only by agents trained in the use of ballistic shields.

### **1046.3.13 FIRST AID KITS**

While conducting field enforcement, such as undercover buys, surveillances, arrests, service of search warrants, clandestine laboratory investigations, and while attending firearms qualification and training, each agent shall have an approved first aid kit available.

It is the responsibility of the Rangemaster(s) to ensure that an appropriately sized and equipped kit is available during firearms qualification and training sessions.

Members of task forces who are issued first aid kits by their parent agencies or the task force shall have those first aid kits when engaging in the above-described activities.

### **1046.3.14 PERSONAL TRAUMA KITS**

While conducting tactical field operations, such as serving arrest or search warrants, all agents shall be equipped with a Personal Trauma Kit (PTK). Each PTK shall contain the following items: a bandage compress, a pair of sterile gloves, petroleum gauze bandage, and the required medical documentation. The medical documentation will include information concerning the agent's blood type, allergies, and any medication he/she may be taking.

Agents shall carry their PTKs in one of the top/chest pockets of the BDU shirt. The DOJ-issued load-bearing vests have a pocket on the weak/support hand side of the vest in the chest area. Agents shall store their PTKs in that pocket when they use their vests. When a rescuing agent administers first aid to an injured agent, he/she shall utilize the injured agent's PTK to ensure that the personal medical documentation is readily available for responding medical personnel.

### **1046.4 INSIGNIA AND PATCHES**

The various insignia and patches used by this department and the likeness of these items are the property of the Department. To remain consistent, the identification shall be permanently affixed in the form of a fully visible stencil or sewn patch.

- a. The following denotes the required identification patches for all DOJ-issued uniforms, foul weather jackets, wind breakers, mesh jerseys, and load bearing vests. The patch colors described below are intended for black BDUs and vests only. Patches of the same design in the Multi-Cam and OD Green color schemes are available and shall be affixed to the corresponding uniforms. The Multi-Cam patch lettering is green against a solid tan background. The OD Green patch lettering is black against a solid green background. The approved identification patches are:
  1. Shoulder Patches - The shoulder patches have the Attorney General's seal in the center in blue and gold against a black background. Shoulder patches shall be placed 3/4" below the shoulder seam of the BDU shirt, windbreaker and foul weather jacket. Shoulder patches shall not be placed on the load bearing vest.
  2. "SPECIAL AGENT" - The SPECIAL AGENT cloth badge is to be affixed to the left chest area and is gold in color. On the BDU shirt, the patch shall be placed 1" above the pocket.
  3. "POLICE" - The POLICE cloth patch or stencil is affixed to the right chest area. The lettering shall be gold in color on a black colored background. The letters shall be 1

1/2" in height. On the BDU shirt, the identification shall be placed 1 1/4" above the pocket.

4. "CALIFORNIA DOJ/POLICE" - The CALIFORNIA DOJ/POLICE cloth patch or stencil is affixed to the back. The lettering shall be gold in color on a black colored background. The "CALIFORNIA DOJ" letters shall be 3/4" in height and the "POLICE" letters shall be 2 3/4" in height.
  5. DOJ-issued name tape - The name tape shall denote the individual agent's first initial and last name. The letters shall be gold in color on a black colored background. On the BDU shirt and foul weather jacket, the name tape shall be centered above the right side pocket.
- b. Hash marks - Hash marks indicating length of service are optional and may be worn on long-sleeved black BDU shirts. Each hash mark denotes five (5) full years of qualifying law enforcement service. For the purpose of this policy, "qualifying law enforcement service" shall be limited to service as a peace officer as defined by Penal Code §§ 830.1, 830.2, or 830.3, or in a comparable position as either a federal law enforcement officer or a peace officer in another state.
1. The Department will bear the expense of having the hash mark(s) affixed to one (1) Department-issued BDU shirt. The expenditure may be submitted as a Travel Expense Claim approved by the supervisor. The agent will be responsible for the cost of applying hash marks to any additional BDU shirts.
  2. The embroidered hash mark is gold against a black background, two and one quarter inches in length, one half inch in width, cut on a forty-five degree angle at each end. The hash mark(s) shall be sewn onto the left sleeve of the uniform shirt. The hash mark(s) shall be placed in a position with the leading corner 3/4" above the on the sleeve cuff. The hash mark(s) shall be placed on the sleeve in such a position so that the leading edge of the hash mark(s) is lined up with the top edge of the seam on the elbow/forearm reinforcing patch.
- c. Insignia of Rank - Insignia shall be permanently affixed to the collar of BDU shirts issued to sworn employees in the rank of Special Agent Supervisor and above as follows:
1. Director: Five gold-colored metal stars shall be worn in a cluster on each side of the shirt collar. One point of each star shall point upwards in a manner that a line bisecting the center of the clusters will be parallel to the front edge of the collar. The stars shall be centered between the top and bottom edge of the collar. The outermost tip of the cluster shall be positioned one inch from the edge of the collar.
  2. Deputy or Assistant Director through Special Agent in Charge: The gold-colored metal stars shall be worn in a straight line on each side of the shirt collar. One point

of each star shall point upwards in a manner that a line connecting the tips of those stars will be parallel to the top edge of the collar. The outermost tip of the front star shall be one inch from the front edge of the collar. The number of stars denoting each rank are

- a. The Deputy or Assistant Director shall wear four stars.
  - b. Bureau Chiefs shall wear three stars.
  - c. Assistant Bureau Chiefs shall wear two stars.
  - d. Senior Special Agents in Charge and Special Agents in Charge shall wear one star.
3. Special Agent Supervisor: One gold cloth bar shall be worn on each side of the shirt collar positioned with the front edge of the bar parallel with, and one inch from, the front edge of the collar. The bar shall be centered between the top and bottom edges of the collar.
- d. Flag Pin - A flag pin may be worn, centered above the name tape.

#### **1046.4.1 MOURNING BADGE**

Sworn employees shall wear a black mourning band across the uniform (belt) badge and the pocket badge, if the pocket badge is worn during the specified period, whenever a law enforcement officer is killed in the line of duty. Non-sworn employees not issued a uniform badge are authorized and encouraged to wear a Department-issued black ribbon pin affixed to the upper left chest area. The following mourning periods will be observed:

- a. A peace officer of this department or another California law enforcement agency - From the time of death, or upon receipt of notification of the officer's death, until midnight on the day of the funeral.
- b. National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- c. As directed by the Director.

#### **1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS**

Unless specifically authorized by the Director, California Department of Justice employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the

California Department of Justice to do any of the following (Government Code §§ 3206 and 3302):

- a. Endorse, support, oppose, or contradict any political campaign or initiative.
- b. Endorse, support, oppose, or contradict any social issue, cause, or religion.
- c. Endorse, support, or oppose, any product, service, company or other commercial entity.
- d. Appear in any commercial, social, or nonprofit publication, or any motion picture, film, video, public broadcast, or any website.

### **1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

California Department of Justice employees may not wear any uniform item, accessory or attachment unless specifically authorized in this manual or by the Director or designee.

California Department of Justice employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in this manual or by the Director or designee.

### **1046.9 UNIFORM AND SAFETY EQUIPMENT COMMITTEE**

The purpose of the Uniform and Safety Equipment Committee (Committee) is to review, research and make recommendations for uniforms, safety equipment and related policy. The Committee shall be chaired by the SAC of the Advanced Training Center (ATC). Membership shall consist of the DLE Firearms Officer, plus one Special Agent and one SAS from each of the following bureaus: BOF, BGC, and BI.

Representatives from each of the bureaus shall be selected by the respective Bureau Chief and appointed to the Committee. In making the personnel selections for the Committee, the Bureau Chiefs are asked to consider the following criteria:

- Desire to work on the Committee;
- Ability to work well in groups and consider pros and cons fairly, setting aside personal preferences;
- Good working knowledge of the Bureau's mission and field enforcement operations;
- Knowledge of the legal and "best practices" aspects of uniform and equipment use; and
- Basic knowledge of current uniform and safety equipment on the market.

### **1046.9.1 TERM OF ASSIGNMENT**

Personnel assigned to the Committee shall accept a commitment of one (1) fiscal year. Upon agreement of the Bureau Chief and the appointee, the appointee may remain on the Committee for up to three (3) years.

### **1046.9.2 MEETINGS**

The Committee shall meet a minimum of three (3) times per fiscal year to review recent submissions and requests received from the field. The Committee Chairperson, in consensus with the members, shall establish meeting dates with the members.

### **1046.9.3 SUBMISSIONS TO THE COMMITTEE**

All requests and submissions to the Committee for consideration shall be forwarded through the respective Bureau chain of command to the Committee Chairperson for inclusion on the meeting agenda.

- a. The submissions shall include a narrative outlining the need for the item or policy to be considered. In the case of equipment, a detailed written description of the item shall include the manufacturer, model number, color or other description and cost.
- b. Bureau Chiefs are encouraged to comment on the need, or lack thereof, for the item or policy as it affects bureau operations.
- c. The Director/Deputy or Assistant Director may initiate a review of a specific policy and/or equipment items he/she deems appropriate for the Committee to review.
- d. The Committee shall review specific policy or equipment for potential modification or implementation.

### **1046.9.4 IMPLEMENTATION**

Upon completion of review by the Committee, all recommendations shall be submitted to the Director's Office for decision on implementation or rejection. The Committee is not authorized to implement any uniform, equipment item or policy on its own accord. All approvals for implementation shall be issued by the DLE Director's Office.

## **1050 Nepotism and Conflicting Relationships**

### **1050.1 PURPOSE AND SCOPE**

The Department's nepotism policy, which is designed to identify and prevent favoritism based on personal relationships in employment decisions, is found in DOJAM §§ 08200-08280.



## **1052 Department Identification**

### **1052.1 PURPOSE AND SCOPE**

The California Department of Justice badge, credentials and identification card, as well as the likeness of these items, and the name of the California Department of Justice are property of the Department and their use shall be restricted as set forth in this policy.

#### **1052.1.1 POLICY**

Only authorized badges, credentials and identification cards issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity. The sale, exchange, transfer, or reproduction of any badge or credential issued by this department is strictly prohibited.

Should a badge, credential or identification card become lost, damaged, or otherwise removed from the employee's control, he/she shall make the proper notifications as outlined in the Policy Manual 700.2(a). If, upon supervisory review, the loss, theft or damage of a badge is determined to have been caused by the employee's negligence or misuse, he/she may be subject to disciplinary action and/or required to compensate the Department for the cost of replacement.

### **1052.2 UNIFORM BADGE**

The uniform badge (also known as the belt badge) shall be issued to sworn members of this division defined by Penal Code § 830.1(b) as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. The uniform badge is a metal shield badge which is intended to be worn clipped to a belt but may also be affixed to a chain or lanyard and worn around the neck.

The uniform badge issued to security officers is a six-point star badge that is pinned to the left side of the shirt above the pocket.

Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

#### **1052.2.1 FLAT BADGE**

The flat badge is a metal shield badge mounted in a wallet. Flat badges are issued to peace officers defined by Penal Code § 830.1(b) and specified non-sworn employees. The flat badge issued to any non-sworn employee shall be inset with a bar below the badge which reads "Not a Peace Officer." All flat badges are issued with a set of credentials.

The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel other than those specified in § 1052.2.2(c).

### **1052.2.2 CIVILIAN PERSONNEL**

Badges and departmental identification cards (credentials) issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Criminalist, Investigative Auditor, etc.) and the fact that they are not peace officers.

- a. Non-sworn personnel shall not display any department badge except while on duty, or otherwise acting in an official and authorized capacity.
- b. Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.
- c. Flat badges with credentials may be issued to non-sworn employees in the following classifications:
  1. Assistant Bureau Chief
  2. Criminalist series
  3. Forensic Scientist Toxicologist
  4. Latent Print Analyst series
  5. Photo Electronics Specialist series

The Director or designee may elect to revoke any non-sworn employee's privilege to carry a badge or credential.

### **1052.2.3 BADGE PURCHASES**

Upon honorable retirement or promotion, an employee may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy. Purchase approval is granted contingent upon the requester's agreement to have the badge permanently disabled (i.e. affixed to a plaque or shadowbox, etc.). Failure to have the badge permanently disabled may result in revocation of the approval and the badge itself.

Sworn personnel may purchase their previously-issued badge(s) if any of the following circumstances apply to the individual:

- a. Honorably separated or retired from the Department with an aggregate of at least five years' service with the State of California; or
- b. Honorably retired due to a service-connected disability after successfully passing probation; or
- c. Promoted within the Department.

Any eligible sworn employee wishing to purchase his/her previously-issued badge(s) shall submit to the DAS a package consisting of a Request to Purchase Badge(s) form (JUS 8735) signed by the employee's SAC; a memorandum from the Bureau Chief to the Director, signed by the Director, indicating approval; and a check made payable to the Department of Justice. The replacement cost of the badge(s) may be determined by contacting the DAS credential coordinator via e-mail at [credentials@doj.ca.gov](mailto:credentials@doj.ca.gov).

Non-sworn employees may be allowed to purchase their previously-issued badges in accordance with the Department's Non-Sworn Badge Policy, found in Administrative Bulletin 07-13.

No employee may purchase his/her badge(s) if he/she is separating or retiring in lieu of dismissal or any pending disciplinary action that would have warranted dismissal. Any request to purchase a badge may be refused, or previously-given approval may be revoked, at the discretion of the Director or designee if he/she deems such action appropriate.

#### **1052.2.4 POCKET BADGE**

The pocket badge is a metal shield badge that is affixed to a clear, rectangular Lucite backing and worn suspended from the breast pocket of a suit. Pocket badges may be issued upon request to sworn personnel at the rank of SAC or above. These badges are to be worn only when representing the Department at events such as conferences or memorial services.

Pocket badges may not be purchased or otherwise retained by employees upon separation or retirement, but may be retained and updated upon promotion.

#### **1052.2.5 CREDENTIALS**

Department credentials are laminated cards identifying the bearer as an employee of this department and include the employee's name, title, photograph, and signature. Credentials issued to agents cite their authority to carry a concealed weapon and are printed with a vertical blue bar and the word "POLICE" along the edge.

Credentials shall be issued only to civilian employees in the classifications listed below. Individual exemptions may be granted in writing by the Director at his/her discretion.

- a. Credentials without flat badges may be issued to employees in the following classifications:
  1. Aviation Officer
  2. Investigative Auditor series
  3. Pilot
  4. Precision Electronics Specialist series
  5. Regional Coordinator
  6. Security Officer
  
- b. Credentials without badges may be issued to employees in the following classifications only upon request by bureau management when there is a demonstrable need for a credential based upon the duties performed by the individual employee:
  1. Associate Governmental Program Analyst
  2. Criminal Identification and Intelligence Supervisor
  3. Criminalist Intelligence Specialist
  4. DOJ Administrator I/II/III
  5. Property Controller
  6. Research Analyst
  7. Retired Annuitant
  8. Staff Services Manager I/II/III

### **1052.2.6 RETIRED PEACE OFFICER IDENTIFICATION**

Any honorably retired peace officer of this department may request that the identification certificate to which he/she is entitled, as described in Policy Manual § 220, be issued without an endorsement to carry a concealed weapon (CCW). There is no need to renew an identification certificate issued pursuant to this section.

### **1052.3 UNAUTHORIZED USE**

Except as required for on-duty use by current employees, no badge designed to be carried or displayed in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and specified civilian employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or Web sites and Web pages.

The use of the badge, uniform patch and Department name for all material (printed matter, products or other items) developed for Department use shall be subject to approval by the Director.

No employee shall loan his/her Department badge or identification card to another person or permit the badge or identification card to be reproduced or duplicated.

### **1052.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the Department badge shall not be used without the expressed authorization of the Attorney General and shall be subject to the following:

- a. The employee associations may use the likeness of the Department badge for merchandise and official association business provided they are used in a clear representation of the association and not the California Department of Justice. The following modifications shall be included:
  1. The text on the upper and lower ribbons is replaced with the name of the employee association.
  2. The badge number portion displays the acronym of the employee association.
- b. The likeness of the Department badge for endorsement of political candidates shall not be used without the expressed approval of the Attorney General.

### **1052.5 BUILDING IDENTIFICATION**

The Department issues each employee an official building identification card bearing the employee's name, identifying information and photo likeness. Employees should be in possession of their Department-issued identification card at all times while on the premises of any DOJ facility.

## **1052.6 ISSUANCE OF BADGES, CREDENTIALS AND IDENTIFICATION**

Requests for new, replacement or corrected badges, credentials, or identification cards without a CCW must be submitted on an Application for DOJ Credentials form (JUS 8877) to the DAS Credential Coordinator. The JUS 8877 shall be signed by the employee's supervisor or Bureau Chief. The Bureau Chief's signature is only required if the requesting employee is in a classification listed in Policy Manual §1052.2.5(b) or any other classification not expressly permitted by this policy to receive a credential.

Any employee to whom a badge and/or credential is issued is required to sign an Identification Credential and/or Badge Assignment Agreement form (JUS 8731) and return the form to the DAS Credential Coordinator.

New and replacement building identification cards may be obtained by submitting a completed Authorization for Issuance, Re-Issuance, and/or Deactivation of Building Identification Badge form (JUS 8741) to the FPU.

No individual or entity within the Department, other than the DAS, is authorized to produce, modify, or purchase from a vendor any uniform badge, flat badge, pocket badge, credential, or retired peace officer identification card.

## **1052.7 RETURN OF BADGES, CREDENTIALS AND IDENTIFICATION**

Upon retirement, separation from DOJ, or promotion, all badges, other than those purchased by the employee, all credentials and all building identification cards shall be collected by the employee's supervisor, documented on the Employee Separation/Transfer Checklist for Property Retrieval (JUS 1421B), and promptly returned to the DAS Credential Coordinator. If a badge or credential is not returned, the supervisor shall immediately notify the Bureau Chief, in writing, via the chain of command. The Bureau Chief shall review the circumstances and notify the Director of his/her recommended action.

## **1055 Reproductive Health**

### **1055.1 PURPOSE AND SCOPE**

Exposure to certain chemicals and high noise may affect reproductive health. The Division seeks to keep its employees' exposure to such hazards as low as reasonably achievable. The policies and procedures found in the Clandestine Laboratory Manual for Instruction and Procedure (CLMIP), the BFS Chemical Hygiene Plan and the Hazard Communication Plan (HCP) are intended to ensure employee safety and limit exposure. Exposure may also be reduced by utilizing engineering controls and personal protective equipment.

Despite these precautions, some exposures may occur. This policy sets forth the procedure for a pregnant female employee to be moved into another work position during pregnancy.

#### **1055.1.1 DEFINITION**

**Reproductive Hazard** - Any chemical recognized by the Office of Environmental Health Hazard Assessment (OEHHA) as part of the Safe Water Drinking and Toxic Enforcement Act of 1986, known to cause reproductive toxicity by interfering with conception, gestation, or the birth of a child. Additionally, high noise exposures identified by the American Conference of Governmental Industrial Hygienists (ACGIH) are also considered reproductive hazards. Exposure to impulse noise exceeding 155 dBC beyond the fifth month of pregnancy may cause hearing damage in the baby.

### **1055.2 RESPONSIBILITIES**

#### **1055.2.1 EMPLOYEES**

Employees are responsible for adhering to the policies and procedures that have been established to limit on-duty exposure to reproductive hazards.

When a female employee whose duties may involve exposure to a reproductive hazard first becomes aware of her pregnancy, she shall notify her supervisor. If the employee wishes to be placed on limited duty status or moved to another position where such exposure is eliminated, she must consult her personal physician regarding potential risks due to her occupation. The personal physician may contact the DOJ Occupational Health Physician from the UC Davis Medical Center and/or an Industrial Hygienist/Safety Officer at DLE Headquarters to obtain up-to-date information on reproductive health hazards.

If the personal physician finds that the employee should be placed on limited duty status or removed from the work environment where the chemical exposure and/or excessive noise may

occur, then a written statement must be obtained which describes the chemical(s) of concern and/or the excessive noise sources that have been identified as reproductive hazards, as well as the duration for which the employee should be removed from the hazardous environment. The employee shall provide the written physician's statement, on an Employee's Work Restriction Update form (JUS 1017), to her supervisor as soon as possible.

All pregnant employees who perform duties associated with the discharge of firearms shall submit an Advisory: Potential Health Hazards Associated with Firearms Training and Use form (DLE 182) signed by their medical care provider to their supervisor within 30 days of discovery of pregnancy.

### **1055.2.2 SUPERVISORS**

Every supervisor whose employees may come into contact with reproductive hazards shall ensure they receive training on policies relevant to preventing such exposures including the CLMIP, HCP, BFS Chemical Hygiene Plan and other relevant procedures. In addition, the supervisor shall review this order with those employees at the beginning of their employment and annually thereafter. Documentation of the review shall be maintained in the employee's training records.

When a supervisor receives a pregnant employee's personal physician's statement recommending that the employee be placed on limited duty assignment status or removed from the work environment where the exposure occurs, the supervisor must comply immediately and for the period specified by the physician.

When a supervisor is notified by an employee involved in the discharge of firearms that the employee is pregnant, the supervisor shall direct the employee to complete the DLE 182 (available on the Intranet) and return the signed form within 30 days of discovery of the pregnancy. The supervisor will provide a copy to the employee and forward copies to bureau headquarters and the Bureau Safety Officer. The original will be sent to the DAS Personnel Unit for inclusion in the employee's Official Personnel File.

### **1055.2.3 BUREAU SAFETY OFFICER**

The Bureau Safety Officer assesses workplace exposures annually to determine if the Division's policies and procedures are effectively limiting exposure to reproductive hazards, maintains a list of reproductive and developmental hazards to which Division employees may be exposed based on OEHHA or ACGIH publications, and provides consultation and training to employees and management on reproductive health issues.

The Bureau Safety Officer shall maintain records of reproductive health accommodation requests and DLE 182 forms. When reproductive health accommodation is necessary, the Bureau Safety Officer shall coordinate with the bureau personnel liaison and the DAS Risk



Management Unit to facilitate limited duty assignments and ensure compliance with applicable personnel rules.

## **1056 Limited Duty**

### **1056.1 PURPOSE AND SCOPE**

When an employee becomes injured, either on or off duty, limited duty assignments may be considered.

### **1056.2 POLICY**

Requests for limited duty must be forwarded through the chain of command to the Director with a recommendation from the Bureau Chief. The request must indicate a specific length of time that the employee will be on limited duty and specific duties that the employee will perform. A note from the employee's doctor specifying all limitations must also be included with the request for limited duty. The Director will review each request, and approval/rejection will be based on the length of recuperation, doctor's limitations, and the type of temporary duties to be performed.